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HAWAIIAN INVESTIGATION.

C pt. 13

REPORT

OF

SUBCOMMITTEE ON PACIFIC ISLANDS AND PORTO RICO

ON

GENERAL CONDITIONS IN HAWAII.

**JOHN H. MITCHELL,
JOSEPH R. BURTON,
ADDISON G. FOSTER,
JOSEPH C. S. BLACKBURN,
SUBCOMMITTEE.**

**WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1903.**

REPORT.

On June 13, 1902, the following resolution was introduced into the United States Senate by Mr. Mitchell, of Oregon, and on his motion referred for consideration to the Committee on Pacific Islands and Porto Rico:

Resolved, That the Committee on Pacific Islands and Porto Rico be, and is hereby, authorized and directed to investigate, inquire into, and ascertain the general condition of the islands of Hawaii, the administration of the affairs thereof, the area, condition, quality, and value of the public lands, the leasing, selling, or disposing thereof, and to make such recommendations as may be deemed necessary; to investigate and ascertain the area, condition, quality, and value of the crown lands, the rents, issues, or other revenues or proceeds received therefrom since January seventeenth, eighteen hundred and ninety-three, whether or not the former Queen of said islands now possesses any legal or equitable right, title, or interest in or to the same, or whether said Queen has any claim against the United States, legal or equitable, by reason of having parted heretofore with her title therein; the granting of franchises or other privileges; the question of immigration; the condition of labor therein, and to inquire into and report upon all other necessary matters pertaining to the executive, legislative, judicial, educational, tax, school, financial, and other systems thereof.

For the purposes aforesaid said committee, or a subcommittee thereof, appointed by the chairman, shall have power to send for persons and papers, to visit the islands, to administer oaths, to sit during the recess of Congress, and said committee shall report at the beginning of the next session of Congress the result of its investigations; the expenses of said investigation to be paid out of the contingent fund of the Senate.

On June 23, 1902, this resolution was reported back to the Senate by Senator Foraker, chairman of the Committee on Pacific Islands and Porto Rico, without amendment, and was referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

On June 25, 1902, the same was reported back to the Senate by Senator Jones, of Nevada, chairman of that committee, without amendment.

On June 28, 1902, the resolution was taken up by the Senate for consideration and, on the suggestion of Senator Aldrich, of Rhode Island, the resolution as originally introduced was modified by Mr. Mitchell, and on that day passed the Senate in the following form:

Resolved, That the Committee on Pacific Islands and Porto Rico be, and is hereby, authorized and directed to investigate the general condition of the islands of Hawaii, and the administration of the affairs thereof, and for the purposes aforesaid said committee, or a subcommittee thereof appointed by the chairman, shall have power to send for persons and papers, to visit the islands, to administer oaths, to sit during the recess of Congress, and said committee shall report at the beginning of the next session of Congress the result of its investigations, the expenses of such investigations to be paid out of the contingent fund of the Senate.

Subsequently Senator Foraker, chairman of the Committee on Pacific Islands and Porto Rico, in pursuance of such resolution, appointed the following subcommittee to make the investigations covered by it: Senators Mitchell, of Oregon, chairman; Burton, of Kansas; Foster, of Washington; Cockrell, of Missouri, and Blackburn, of Kentucky. Of these, Senators Cockrell and Blackburn found it impossible to accompany the committee to the islands.

On Thursday, July 3, 1902, at 2 o'clock, the subcommittee, all being present except Senator Cockrell, met at Washington, D. C., and organized by the selection of Harry C. Robertson as secretary and Thomas Sammons as sergeant-at-arms, and adjourned to meet in the islands.

Your committee, consisting of the three Senators first named, met in Honolulu, Hawaii, on the 6th day of September, 1902, and then and there proceeded immediately with its investigations.

Inasmuch as the modification of the resolution as originally introduced eliminated all of the specific subjects of investigation named in the resolution, and authorized a general investigation of "the general condition of the islands of Hawaii and the administration of the affairs thereof," as prescribed by the resolution as passed, your committee concluded the authority vested in it was not confined to an investigation of any one of the subjects, but embraced and included not only all the subjects mentioned in the original resolution, but also any other not named in the original resolution which the committee might deem of material inquiry bearing upon the general subject of the "general condition of the islands of Hawaii and the administration of the affairs thereof." In other words, the construction to be placed on the resolution should be quite different from that had the modifications simply stricken out one or more of the subjects named in the original resolution, leaving one or more specified in the modified resolution as passed.

Your committee remained in the islands twenty-five days, during which time it held 43 sessions for the purpose of taking testimony and gathering information. These sessions were held mainly in Honolulu, island of Oahu; but sessions were also held and much testimony taken at the city of Hilo and at Mountain View, on the island of Hawaii; also at the port of Wailuku, island of Maui. All sessions of the committee were held with open doors, the representatives of the press and the public generally, including government officials, being present.

Your committee visited five of the seven inhabited islands, namely, Oahu, Hawaii, Maui, Lanai, and Molokai. Your committee also visited ten of the principal sugar plantations on the islands of Oahu and Hawaii.

We also made diligent inquiry into a number of subjects, as will hereafter be made to appear, and examined in all 176 witnesses, representing all classes in the islands, the testimony of all of whom was given under oath. In visiting these plantations, your committee made careful inquiry into the character of the operations of each, the wages of the employees, the character of their tenement houses, their mode of living, and their general condition and that of their families.

Your committee was very generously proffered the use of suitable and convenient rooms in the naval station by Capt. W. H. Whiting, commandant in charge of the naval station at Honolulu, where the principal sessions of your committee were held, and during which numerous courtesies were extended by Captain Whiting.

Your committee also made a careful investigation of the harbors, including Honolulu and Pearl harbors, on the island of Oahu, and at Hilo, on the island of Hawaii, and also of a number of other minor harbors on the different islands, with the view of ascertaining what improvements in the way of deepening, widening, and protecting them are necessary, and also what light-houses, buoys, and other improvements are demanded in the interest of coast and intercoastal commerce.

Your committee, after making a thorough survey of the whole situation, viewed in the light of the authority under which your committee was proceeding, and in response to numerous requests from various

organized bodies, Federal and Territorial officials, and many private persons, deemed it its duty to consider and carefully inquire into the following subjects:

SUBJECTS INVESTIGATED.

✓ The political status of Government and people, arising from character and operation of Federal and local laws.

✓ The labor question.

Public lands:

Crown.

Public.

Surveys of.

Valuations of.

Homesteads.

Sales and leases of.

Laws:

Penal and civil.

Federal and local.

Their practical operation.

Plantations: The sugar, rice, banana, pineapple, and other industries.

Administration by executive officers.

Municipal, city, and county government, necessity for.

Taxation; Federal and local revenues and local appropriations.

Coffee industry.

Territorial government, expenses of.

Different departments, expenses of.

The judiciary, Federal and Territorial.

Charges of incompetency and corruption preferred against circuit judge on island of Maui.

✓ Immigration; Portuguese, Chinese, Japanese, etc.

Harbors; Honolulu, Hilo, and Pearl.

Breakwater at Hilo.

Light-houses.

Fire claims.

Epidemics; the plague.

Appointing power of executive.

Veto power of the executive.

Buildings, public.

Board of health, administration of.

Hawaiian coins.

The punchbowl lands; Portuguese claimants.

✓ Schools, public and private.

Leprosy; the leper settlement, its condition and management.

Prisons.

Police.

Schools, public and private.

Quarantine station, etc.

Reciprocity.

Salaries of officials.

Sheriffs, powers of.

Appropriations:

Asked from Federal Government.

By Territory.

Embezzlements by officials.

Hawaiian or Kohala ditch enterprise.

Liliuokalani, claim of, for indemnity.

Crown lands, value and income of.

Organic act, amendments suggested.

Shipping.

Commerce.

Stock raising and several other minor matters.

Before proceeding with the investigation, your committee addressed two letters, one to Hon. Sanford B. Dole, governor of the Territory,

and the other to Hon. Henry E. Cooper, secretary of the Territory, of which the following are copies, respectively:

HONOLULU, HAWAII,
September 8, 1902.

SIR: The subcommittee of the Senate Committee on Pacific Islands and Porto Rico, commissioned to investigate the general conditions of the islands of Hawaii and the administration of the affairs thereof, is now in session at the rooms of the naval station in this city, and, before proceeding with general investigations, have deemed it proper that you, as governor of the Territory, should have the privilege of presenting any statement you might deem proper to make to the committee, bearing upon the general question of legislation in the interest of the people and the government of the islands.

We shall be glad to hear from you, if convenient and agreeable to you, either in writing or otherwise, at our rooms, on to-morrow, Tuesday, September 9, at 10 o'clock a. m.

We are, with great respect,

JOHN H. MITCHELL, *Chairman*.
A. G. FOSTER.
J. R. BURTON.

His Excellency, Governor SANFORD B. DOLE,
Governor of Hawaii, Honolulu, Hawaii.

HONOLULU, HAWAII, September 8, 1902.

SIR: The subcommittee of the Senate Committee on Pacific Islands and Porto Rico, commissioned to investigate the general conditions of the islands of Hawaii and the administration of the affairs thereof, is now in session at the rooms of the naval station in this city, and, before proceeding with general investigations, have deemed it proper that you, as secretary of the Territory, should have the privilege of presenting any statement you might deem proper to make to the committee bearing upon the general question of legislation in the interest of the people and government of the islands.

We shall be glad to hear from you, if convenient and agreeable to you, either in writing or otherwise, at our rooms, on to-morrow, Tuesday, September 9, at 10 o'clock a. m.

We are, with great respect,

JOHN H. MITCHELL, *Chairman*.
A. G. FOSTER.
J. R. BURTON.

Hon. HENRY E. COOPER,
Secretary of the Territory of Hawaii, Honolulu, Hawaii.

Your committee also caused to be published in the Pacific Commercial Advertiser, the leading daily newspaper of Honolulu, a notice of which the following is a copy:

NOTICE.

The undersigned, a subcommittee of the Committee of the United States Senate on the Pacific Islands and Porto Rico, having been authorized and directed by a resolution, adopted by the United States Senate, to investigate the general condition of the Islands of Hawaii, and the administration of the affairs thereof, are now in Honolulu for the purpose of executing such commission, and will meet in rooms at the naval station in this city on Monday, September 8, 1902, at 10 o'clock a. m., at which time they will be pleased to hear briefly, in writing, from any citizen, Federal or Territorial official, or representative body of Hawaii, calling our attention to such subjects as it may by them be deemed important for us to consider, looking to the betterment of the people and the government of the islands.

JOHN H. MITCHELL, *Chairman*,
J. R. BURTON,
A. G. FOSTER,

Senate Subcommittee on Pacific Islands and Porto Rico.

HONOLULU, September 7, 1902.

To these letters Governor Dole made response as follows, and Secretary Cooper appeared in person and gave his testimony, which will be found in the appendix:

GOVERNOR DOLE'S LETTER.

EXECUTIVE CHAMBER, TERRITORY OF HAWAII,
Honolulu, September 9, 1902.

SIR: It is with great satisfaction that I have received your letter on behalf of the Subcommittee of the Senate Committee on Pacific Islands and Porto Rico, commissioned to investigate the general conditions of the islands of Hawaii and the administration of the affairs thereof, inviting me to confer with the committee upon the general question of legislation in the interest of the people and government of the Territory of Hawaii.

I feel that the presence of your committee in these islands for the purpose of investigating matters relating to this subject can not fail, in the acquisition of information to be laid before Congress, of resulting in important benefits to the Territory.

The subject of the administration of our public lands is one of extreme importance to the inhabitants of this Territory. Inasmuch as the present system and policy having developed gradually in accordance with local conditions and the topography of the country, and the public having become accustomed to its methods, radical changes should not be introduced without assured benefits corresponding with the probable expense and disturbance of such innovations.

I shall make it my duty to lay before your committee all possible information that may aid it in reaching a full understanding of this subject in all its bearings.

I would further call your attention to the following matters, the investigation of which would probably be of benefit to the Hawaiian community:

Hawaiian coins now in circulation; the Kohala ditch scheme; payment of the claims awarded by the fire commission; insufficiency of the Territorial revenues for carrying on the public business; the necessity of the establishment of a bureau of forestry, to be administered upon scientific principles; the need of a Federal building in Honolulu for the accommodation of the Federal court, the post-office, and internal-revenue officers; the question of the introduction of Chinese laborers for limited periods and for the performance of agricultural labor only, and protection of sea fisheries.

Pardon this brief statement. Not knowing the methods your committee would adopt in making its investigations, the government of the Territory had refrained from taking the initiative, but holds itself in readiness to respond to the plans of your committee and to aid it in all possible ways.

Very respectfully,

SANFORD B. DOLE.

HON. JOHN H. MITCHELL,

Chairman Subcommittee of the

Senate Committee on Pacific Islands, etc., Honolulu, Hawaii.

CENTRALIZED CHARACTER OF GOVERNMENT.

Your committee was somewhat surprised at the general centralized character of the government of the Territory, and the manner of conducting the business of the government in Hawaii. In very many respects is the organization of the Territory so dissimilar to that of any other of the organized Territories of the United States, and partakes so little in its organization and practice of what is generally understood to be a government republican in form and in practice, and has so many of the old elements of monarchy still prominent, both in its organization and practice, that it is somewhat difficult to determine—as they are so very slight—as to the extent and character of the changes in the form and practical operations of the government from those of the old monarchy.

This results partly from the peculiar conditions existing in the islands when they passed from the republic to the United States, and partly from what your committee believes to be certain oversights and omissions by Congress in the enactment of the organic act of the

Territory. These omissions, and certain amendments to that act which your committee will recommend, will be stated later on in this report.

Your committee fully realizes, however, that it was not to be expected that the rapid transition from a monarchy to a republic, and from a republic to a part of the United States, in the form of a Territorial government, which marked the history of these islands in such a brief period, would be characterized by very many radical changes, and it should not, therefore, be a matter of very great surprise that many of the old monarchical forms and practices should still cling to the present government.

But it is the opinion of your committee that the time has arrived when the real interests of the people of Hawaii require that many at least of these old, ancient, unrepblican, and undemocratic forms and practices should be eliminated; that the centralization of power now in vogue should in a measure be eliminated by legislation, both Federal and local, based upon the well-recognized principles of republican representative government. Especially does this seem to be important in view of the fact that there are among very many of the leading men of the islands—as well those in power as others—evidently a strong disposition to adhere with a strange degree of pertinacity to these old forms and practices which existed under the monarchy, which were transmitted to the republic, and, as suggested, are still prominently apparent in the present government.

Your committee believes that a greater degree than exists at present of the real spirit of republican representative government, of genuine democracy and home rule, and of true Americanism which is the legitimate outgrowth of the principles which form the base of our Republic, should be injected into national legislation relating to this Territory, and also into the practical administration of both Federal and local laws therein. It is by this means these interesting, intelligent, and absolutely loyal people, the native Hawaiians, will be brought gradually, but not with inappropriate haste, from out the shadow of empire into and under the vitalizing influence of republican representative government.

The people of Hawaii as a mass can not be commended too highly for their attitude toward the Federal Government since annexation was consummated. They have shown a spirit of devotion and loyal allegiance to the Republic and its flag worthy of all praise. Yet it is not strange that those who held office under the late monarchy, and many of whom are now holding leading official positions in the Territorial government, should be slow to relinquish many of the old governmental forms and practices under which they lived and officiated for so many years.

It is not, and should not be, the policy of the Government of the United States to permit the people of any of its outlying Territories, much less those so far advanced in intelligence and in all the elements of modern Christian civilization as are the people of Hawaii, to conduct the government upon the practical ideas of a monarchy under the forms of a republic. The centralized power of the ancient monarchy, exercised by the few, should not be perpetuated by tacit assent or otherwise upon the part of the Government of the United States, but should be made to yield as rapidly as possible to a more general distribution among and a fuller exercise of authority and power by the many. The common people of Hawaii are intelligent, educated, and discriminating. They have been rightfully led to believe, and do believe, that by annexation

there has been opened to them the right to a more enlarged participation in the Government under which they live than they formerly possessed, and if this right is denied them by the continued exercise of a centralized power, it is likely to lead to a feeling of distrust and unrest, and eventually to open revolt against what they may come to believe is an unjust deprivation of what they believe to be, and are, their just rights.

THE ADVISORY COUNCIL.

As an illustration of this disposition to cling to the old monarchical forms, attention is called to the following:

Your committee finds that the several heads of different departments of the Territorial government have, without any authority of law, following the practice of the monarchy, established a practice which tends, as the committee believes, very strongly to interfere with that absolute freedom and independence of each in the performance of public duty which the law contemplates and the well-being of the people demands should exist. This consists in the organization of what is termed an "advisory council." This "advisory council" is, according to the testimony of Land Commissioner E. S. Boyd (see Appendix), "composed of the active heads of public matters who form the council."

On this subject attention is attracted to the following extract from Land Commissioner Boyd's testimony given before your committee at Honolulu September 25, 1902, Commissioner Boyd being questioned by Mr. Loebenstein, of Hilo:

Mr. LOEBENSTEIN. Is it a fact that you, as land commissioner, pass upon all applications either for lease or purchase?

Mr. BOYD. On the recommendation of the commissioner, with the approval of the cabinet and the governor.

Mr. LOEBENSTEIN. Who forms this council?

Mr. BOYD. It is the advisory council.

Mr. LOEBENSTEIN. Who forms the advisory council; yourself for one?

Mr. BOYD. Well, when we have matters to bring up that need advice from other heads we sit in council and discuss these matters.

Mr. LOEBENSTEIN. Superintendent of instruction?

Mr. BOYD. Sometimes called in; yes.

Mr. LOEBENSTEIN. The treasurer?

Mr. BOYD. Yes.

Mr. LOEBENSTEIN. Other heads of bureaus, members of that advisory council?

Mr. BOYD. The active heads of public matters form the council.

Mr. LOEBENSTEIN. The fact that you are responsible, Mr. Boyd, for the proper carrying out of your duties, do you not think, as a matter of fact, that the discretionary power, whether over lands leased or sold, should be vested entirely in your charge and not be under the control of the superintendent of public instruction and other heads?

Mr. BOYD. Mr. Loebenstein, when I am permitted to discuss matters of other departments, and to give them advice within my little knowledge, of course, I should think that they had a perfect right to discuss matters in my department and to give me advice.

Mr. LOEBENSTEIN. Then you admit that you get the advice of the so-called advisory council before you can act?

Mr. BOYD. Not necessarily so; no.

Mr. LOEBENSTEIN. But you do it?

Mr. BOYD. We do it; yes.

[See Appendix.]

In this connection attention is called to the fact that the question as to the advisability of having a "cabinet" or an "advisory council" was before the Hawaiian Commission, and carefully considered and rejected as un-American by a majority of the eminent men composing

that Commission, as will appear from the report of that Commission, and also from the testimony of Edwin S. Gill, given before your committee in Honolulu in September, 1902. Mr. Gill's testimony follows:

And speaking of this executive council, as it is called, I would like to call the attention of the Commission to this relic of the republic, or oligarchy. The organic act of Hawaii does not contain one word about an executive council, and yet we have such a body in this Territory, and it not only exercises executive functions, but legislative as well, and in one instance attempted to exercise judicial functions. The subject of an executive council was discussed by the Commission appointed by President McKinley in 1898 to frame an organic act for the Territory. The majority report, signed by Senator Cullom, said, on page 17:

"The majority of the Commission have not been able to agree with the suggestions of those who favor the creation of a 'cabinet,' or 'advisory council,' to aid the Territorial governor in his administration of the affairs of the Territory of Hawaii. * * * The history of the Territories of the United States, covering many years of experience, has not, in the opinion of the Commission, shown a necessity for any number of advisors. The powers of a Territorial governor are likely to be so clearly defined by the legislation of Congress and the laws of the Territory that there will hardly be need for such an establishment as an 'executive' or 'advisory council.'"

Despite the fact that the Commission thus reported and that Congress failed to provide for such a body, the Territorial administration was no sooner organized than an "executive council" was formed, and, as pointed out, it has not only arrogated to itself executive powers but legislative as well.

Governor Dole presented a minority report on this question, urging that the various heads of departments should constitute an executive council, giving as one of his reasons, as appears on page 19 of the Commission's report, that—

"The political troubles of the Hawaiian community, culminating in the downfall of the monarchy, were mainly due to the persistent efforts of successive sovereigns to acquire unlimited personal power."

And yet there never was a sovereign in the days of the monarchy that possessed the "unlimited personal power" now possessed by the Territorial governor, and if the organic act, as prepared by the Commission, had been enacted by Congress, his power would have been still greater, as section 83 of the original draft (see p. 37 of the Report of the Hawaiian Commission, printed in 1898) of the organic act provided that the governor should appoint not only the various officers he now appoints, but all the supreme and circuit judges of the Territory as well—a power that no one outside the members of the Hawaiian Commission would have dreamed of upon the governor of a Territory, himself an appointed officer.

The centralized monarchical character of the existing government in Hawaii may be judged from the following statement, made under oath before your committee by Hon E. P. Dole, the present attorney-general of the Territory. General Dole, in his testimony before your committee in Honolulu, September 15, 1902, said:

The conditions which have existed from the beginning of centralized government in these islands have been quite different from what you are accustomed to in the United States. There is a government in this Territory which is centralized to an extent unknown in the United States, and probably almost as much centralized as it was in France under Louis XIV.

It is true the conditions in Hawaii are *sui generis*. It is a Territorial government covering and embracing a number of islands—some widely separated—the two principal cities of Honolulu and Hilo on the respective islands of Oahu and Hawaii being separated from each other by sea 229 miles.

But this fact, so far from being an argument in favor of a centralized government, with the head of that government and all of its principal offices located on one of these islands, as at present, is, in the judgment of your committee a strong argument in favor of the establishment of local, county, city, and town municipalities. At present there is neither city nor county organizations in any of the islands of any character; taxes collected in all these islands whether for general

or local purposes must find their way into the Territorial treasury at Honolulu, on the island of Oahu, and from there be distributed under direction of boards appointed by the governor and confirmed by the local senate, and in such proportions for local and general improvements and in such localities as these boards, respectively, may determine.

Under existing conditions, if the people of the city of Hilo, on the island of Hawaii, desire a street opened or improved, a sewer constructed, a schoolhouse built, or any other local improvement of any character, they are compelled to apply to the board of public works in Honolulu, or, what is virtually the same thing, to the local representative of that board in Hilo, ultimate action and approval to be had by the authorities in Honolulu, over 200 miles distant by sea. The same is true in regard to the opening and construction of roads, not only in the island of Hawaii—which by the way is larger in area than all the other islands of the group put together—but in all the seven inhabited islands of the group.

Still further, all the expense of opening, widening, and construction of streets in the cities of Honolulu and Hilo, and the lighting of each, must be and is paid out of the general fund in the Territorial treasury, contributed by all the taxpayers of the Territory. The lot holder in neither of these cities contributes a cent toward any street improvement. The owners of property adjacent to a desired street, although they may agree unanimously, can not compel the opening or improvement of a street. It all depends on the autocratic will of the commissioner of public works, and when he orders a street opened or improved the adjacent property owners contribute nothing toward the expense of the improvement. It all comes out of the general fund in the treasury. The coffee planter on the mountain, the sugar planter in the valley, the rice and banana and taro cultivator in the marshes, and the farmers on their homesteads must all contribute of their substance to beautify and furnish gas and electric lights and a water supply for the cities. This is one of the effects of a centralized government, one of the results of a policy that rejects the wholesome American doctrine of municipal government.

Your committee must not be understood, however, by what has been said that it advises any very numerous or drastic changes in the organic act organizing the Territory of Hawaii. Upon the contrary, your committee is of the opinion that by an intelligent, generous, patriotic, and deferential cooperation upon the part of the local government with the General Government, coupled with a few direct changes in the organic act hereinafter suggested, the centralized character of the Government hereinbefore referred to, and many of its monarchical and un-American features, against which there is much complaint by the great body of the common people of the islands, can be eliminated.

In fact, in the opinion of your committee, the establishment by law, either local or Federal, of county, city, and town organizations on the different islands, which would have control of local improvements; the opening, widening, and construction of streets, alleys, and sewers; the erection of schoolhouses and all local improvements in all cities and towns, and the opening and improvement of roads in the country; the assessment, collection, and disbursement of taxes for local improvements would substantially accomplish that which, in the judgment of your committee, is so highly desirable, and which would eliminate those features which are very objectionable under the present system, and against which the people of the islands, irrespective of race and

condition, and especially of the islands other than Oahu, on which the city of Honolulu is located, are vigorously protesting.

Under the present system the owner of lands in Hawaii, more than 200 miles distant by sea from Honolulu, and the owner of lands in each of the other islands except Oahu, must go by sea long distances to Honolulu to find his record title. If a transfer of title is to be made or a mortgage executed resort to the records of Honolulu must be had, and while the title to a piece of land in the island of Hawaii may be clear from incumbrance when examined to-day, it may be covered by deeds or mortgages before the transfer or mortgage can reach Honolulu from Hawaii by boat a week hence. There should, in the opinion of your committee, be a land record for deeds and mortgages on every one of the seven inhabited islands, or if not on every one, most certainly should there be one at Hilo, on the island of Hawaii, as well as at Honolulu, on the island of Oahu, and if not one on each of the islands of Maui, Molokai, and Lanai, then one on the island of Maui for these three.

The islands of Kauai, 61 miles distant from Oahu, and Niihau, a few miles farther off, might for the present, perhaps, remain attached to Oahu for land-record purposes, though your committee would recommend a separate land-record office for Kauai, as this island is the fourth in both area and population of all the islands, having a population in 1900 of 20,734, or 13½ per cent of the total population of the Territory.

Under the present system the heads not only of all Federal offices but also of all local departments are located in the city of Honolulu, viz: The governor, the secretary of the Territory, the Territorial attorney-general, the treasurer, the commissioner of public lands, the commissioner of agriculture and forestry, the superintendent of public works, the superintendent of public instruction, the auditor, the deputy auditor, surveyor, high sheriff, members of the board of health, commissioner of public instruction, board of prison inspectors, board of registration and inspectors of election, and, as must necessarily be, any and all other boards of public character that in the future may be created by law. Moreover, all these officers, and all these heads of different boards, except the governor and secretary, are all appointed by the governor by and with the consent of the local senate.

It is against this centralized feature of the existing system of government that your committee found long and loud protest in the different islands, especially in the islands other than Oahu, on which Honolulu is located. These protests, however, were not by any means confined to the people of the islands other than Oahu, but many came from the people of Honolulu and other sections of Oahu. Your committee found much complaint to the effect that the city of Honolulu and the island of Oahu were receiving much more than their just proportion of the taxes which are contributed by the people of all the different islands and used in public improvements.

EXPENDITURES FOR THE CALENDAR YEAR ENDING DECEMBER 31 1900, IN THE ISLANDS OF OAHU AND HAWAII, RESPECTIVELY.

In support of the claim upon the part of the citizens of the island of Hawaii, and particularly of the citizens of Hilo, on that island, that they are not getting their proper share of the appropriations for city and island improvements, attention is called to the following table, on page 9 in the report of the Territorial auditor, H. C. Austin, of date

January 31, 1901. This report relates to the financial transactions of the Territory of Hawaii for the year ending December 31, 1900.

Island of Oahu:	
Sewerage for Honolulu	\$284, 804. 40
Waterworks, Honolulu	118, 921. 03
Harbor improvements, Honolulu.....	101, 679. 28
Improvements, Nuuanu Stream	3, 536. 07
	<hr/>
	508, 940. 78
	<hr/>
Island of Hawaii:	
Harbor improvements, Hilo	\$5, 633. 62
Sewerage, Hilo.....	3, 373. 38
Waterworks, Hilo.....	11, 894. 68
Roads and bridges, Hawaii.....	92, 132. 90
Post-office, Hilo.....	461. 75
	<hr/>
	113, 496. 33

The number of registered voters at the late election in Hawaii in the two islands of Oahu and Hawaii, respectively, was as follows:

Oahu	6, 368
Hawaii	2, 947
	<hr/>
Total	9, 315

Assuming the proportion of voters in the two islands was about the same in 1900, Oahu had 68.5 per cent of the voting population and received 81.8 per cent of the appropriations, while Hawaii had 31.5 per cent of the voters and received but 18.2 per cent of the appropriations.

That there should be, under such conditions, a feeling upon the part of many of the people of the islands other than Oahu, on which Honolulu is located, that they are not receiving their proper share of the taxes, to which fund they have equally contributed annually their proportion, is not a matter of any great surprise.

The situation and the character of the people of Hawaii in respect of advancement in the arts of civilization and of government are wholly dissimilar to those of the Philippines and Porto Rico, and laws applicable to the latter are wholly inapplicable to the former. The situation in Alaska is also very different, because of its very sparse population, scattered over such an immense area, and the lack of centralized population and sources of revenue to maintain county and city municipalities.

MUNICIPAL, COUNTY, CITY, AND TOWN ORGANIZATIONS.

As bearing upon this phase of the subject, the importance of some changes in legislation affecting Hawaii, both national and local, your committee attracts attention to the following communication from a native Hawaiian, one of the most intelligent, thoroughly educated, and enterprising citizens of the island, Curtis B. Iaukea, residing at Waialua, on the island of Oahu, some 40 miles distant from Honolulu:

To the subcommittee of the Senate Committee on Pacific Islands and Porto Rico.

HONORED SIR: I have deferred presenting this, thinking that in the course of your investigations some one or other of our prominent citizens conversant with Hawaiian affairs would speak or touch on some phases of the political situation that, to my mind, has an important bearing on existing local conditions. This has remained for me to do, however, and as far as I am able place the matter before you now.

Living and coming in daily contact with the native Hawaiians, speaking their language—in fact, one myself—it is but natural that I should, to a large extent, share their views and sentiments, especially on questions affecting their political rights. The electorate is largely Hawaiian. To properly understand his position and the reason of his present attitude toward the local administration it will be necessary to make a brief reference to a period of Hawaiian history prior to and immediately preceding annexation.

After some years of political inactivity the Hawaiian people, seeing all hopes of restoration had passed, naturally looked to annexation as the turning point in their political career, and expected, as Americans, to enjoy all the rights and privileges of American citizenship. Their expectations were not to be realized, however, for not only was the same monarchical system maintained, under cover of the American flag, in the new Territory, but all the local administrative power was to remain in the same hands. Thus was engendered and raised anew the feeling of resentment on the part of the electorate, resulting, as was seen at the first general election, in the defeat of the Republican party at the polls. Here you have, as well as I can describe it, the true feeling and sentiment of the native Hawaiian at the present time and the position he assumes toward the local administration. Unfortunately for the Republican party in Hawaii, nearly all of the prominent men concerned in the overthrow are among its most influential leaders.

Like all good citizens having the interest of the Territory at heart, no one desires to see the present political tension continue. It must be remedied; if not by ourselves, then by Congressional action. To my mind, county and municipal government affords the only solution. With all due respect to the opinions of those opposed to a change of our administrative system, I state it as my candid opinion that nothing short of the total disintegration of the present monarchical government will fully reconcile the electorate to their new conditions and accomplish what is very much desired in this Territory at the present time—a peaceful community. This may be a radical view to take, but it required radical means to overthrow the monarchy.

In advocating the change let me present some practical illustrations of the working of our present centralized government as applied to the country districts. As chairman of the Waialua road board I am required by law to furnish bonds. No salary is attached to the office, and yet many of the salaried officials of the central government who have the receiving and paying of large sums of public moneys are not required to file any bond whatsoever. The people in the country districts have no voice whatever in their local administration, all officials being directly under the control of the department heads and subject to their direction. The local taxes of whatever kind or nature are collected and deposited in the treasury, the taxpayer having no voice, except through the legislature, how the taxes shall be expended. The only exception is the road tax, an insignificant sum.

Although the law distinctly states that this fund is available to the respective road boards, the moment it is deposited in the treasury by an arbitrary ruling it can not become so until so notified by the department. Not only this. A recent order of the department makes it obligatory on road boards to first obtain its approval of contracts for road work of \$100 and over, when the law governing public contracts specifically places the amount at \$500. Even in the only instance where the law provides for local control of public funds every restriction imaginable is imposed by department heads, rendering the object of the law practically useless. An instance of the gross injustice in the distribution of public funds might be illustrated in the case of Waialua, where I reside. Waialua's present taxation returns to the general government amount to \$52,700 in round numbers. Waialua received back, to be expended in the district in the shape of road funds, salaries of officials, etc., less than \$17,000. The sum of \$35,700, or nearly 70 per cent of the total taxation, therefore constitutes the people of Waialua's contribution for the improvement of Honolulu's streets and the benefit of other communities. If this is not taxation without representation it is next door to it. These are only a few instances of the one-sided workings of our centralized system where the people who control know nothing of the needs and requirements of the outside districts.

As I have already publicly expressed my opinions on city and county government in answer to the opponents of the measure charging the native electorate with incompetency and irresponsibility, I will not take up the time of your committee by reiterating them here. Suffice it to say that, whatever the system, surely none can be found or devised that will equal the present one in extravagance; for when it is realized that for administrative purposes alone, exclusive of current expenses, over a

million dollars a year is expended, equal to a tax of \$7 a head for every man, woman, and child in the Territory, that alone, aside from its oligarchal features ought to afford ample reason why a speedy change should be made.

Respectfully submitted.

CURTIS P. IAUKEA.

WAILUA, September 24, 1902.

Your committee was presented with 17 separate and distinct petitions, signed by 846 persons claiming to be citizens and voters, some from each electoral district and precinct in the Territory, and of which the following is a copy:

We, the undersigned citizens of the United States and of the Territory of Hawaii, do earnestly petition Congress for the speedy enactment of such law as may be necessary to make available for the purposes of county, town, and city municipalities the Territorial lands and other property necessary therefor.

In view of the fact that county, town, and city municipalities are desired by a large majority of the people of the Territory and their enactment of a law providing for the establishment has been pledged to the people in the platforms of each and every political party of the Territory having nominees for election to the coming legislature, we beg to call the attention of Congress to the necessity for such speedy action in the premises as may be consistent with other affairs of the nation demanding their attention.

O makou o ka poe no lakou na inoa malalo iho nei, he poe kupa no Amerika Huipui a no ke Territori o Hawaii, ke nonoi aku nei me ke kuio i ka Ahaolelo Lahui e hooholo koke ia ona Kanawai e hoolilo ana i na aina o ka Panalaa a me na waiwai e ae no na oihana o ke Aupuni Okana Aina, Taona a me Hooponopono Kulanakauhale; Nolaila.

Mamuli o ka ikeia ana o ka makemake ana o ka hapa nui o ka lahui o ke Teritori nei e ku ke Aupuni Okana Aina, Taona a me Hooponopono Kulanakauhale, a ua hooia ia aku hoi imua o ka lahui ke kukuia ana o keia mau kulana hooponopono Aupuni, maloko o kela a me keia kahua hana holo balota o kela a me keia aoao Kalaiaina o loko nei o ke Teritori i loaa na moho holo balota no ke Kau Ahaolelo e hiki mai ana, ke nonoi aku nei makou i na hoomaopopo ana a ha Ahaolelo Lahui no ke kupono maoli o ka hooholo koke ia ana o kekahi keehina hana ma keia mabele, e like no hoi me na hana e ae a ka lahui e koi aku nei i ko lakou mau noonoo.

By section 56 of the act of Congress entitled "An act to provide a government for the Territory of Hawaii," approved April 30, 1900, it is provided as follows:

"That the legislature *may* create county, town, and city municipalities within the Territory of Hawaii and provide for a government thereof." This, it will be observed, is not mandatory, but merely permissive, and up to the present time no provision has been made by the local legislature for the creation of county, town, or city municipalities. The last legislature enacted a law which became inoperative by reason of a pocket veto by the governor.

In the bill (S. 222), which finally became the organic act, the clause in section 56 was precisely the same when first presented to the Senate as that section in the organic act. The Senate Committee on Foreign Relations, however, to which committee it was referred on December 12, 1899, reported it back February 27, 1900, with an amendment to this section so as to read as follows:

SEC. 56. That, the legislature at its first regular session *shall* create counties and *may* from time to time create town and city municipalities within the Territory of Hawaii, and provide for the government thereof.

And in this form the bill passed the Senate, and the word "*shall*" was rejected by the House and the word "*may*" substituted.

BOTH POLITICAL PARTIES IN HAWAII DECLARED IN FAVOR OF COUNTY, CITY, AND TOWN MUNICIPALITIES IN 1900 AND 1902.

In the platform of the Republican party in Hawaii, in May, 1900, there was the following plank:

We favor the speedy enactment of laws for the establishment of such county and municipal governments as may be necessary to bring the conduct of our local affairs into full accord with the theory of American institutions and the principles of home rule.

A plank substantially similar was in the platform of the Home Rule party of that year.

A substantially similar plank was also in each of the platforms of the two political parties (Republican and Home Rule) in the recent campaign in Hawaii. That in the Republican platform read as follows:

We favor the speedy enactment of laws for the establishment of such county and municipal governments as may be necessary to bring the conduct of our local affairs into full accord with the theory of American institutions and the principles of home rule. [See Appendix.]

An interesting letter on this subject, as also on several others in connection with the government of Hawaii, is one written by F. L. Winter, of Wainaku, Hilo, September 3, 1898, to Senator S. M. Cullom, chairman of the Hawaiian Commission, and a copy of which was submitted by Mr. Winter to your committee and is published at length in the appendix accompanying this report. [See appendix.]

Bearing upon the question of the advisability and necessity of the organization of municipal, city, and county governments in these islands, we ask attention to the following testimony of Judge Gilbert F. Little, taken at Hilo, Hawaii, September 18, 1902:

Senator MITCHELL. Judge, is there anything that occurs to you as a citizen of this Territory that you would like to mention or call attention of the committee to here in addition to what you have said?

A. I think we should have an express recommendation from the committee in the proper manner and at the proper time in the interest of county government. When I had the honor of representing the Americans during the first session of the Fifty-sixth Congress in Washington, when our act to provide for a government of the Territory of Hawaii was under consideration, I made a strenuous effort to have section 56 of the act amended to read as follows: "That the legislature shall, at its first session, create counties, town, and city municipalities within the Territory of Hawaii and provide for the government thereof."

The Senate passed the section as above, but the House amended the Senate bill by striking out all after the enacting clause and substituting the House bill, and section 56 was finally passed as it now reads. We have no county government under the organic act, and we are therefore suffering from some of the most incongruous conditions. For instance, we have a high sheriff, which acts like the fifth wheel in a wagon. He resides in Honolulu and assumes to have charge of the other sheriffs. We have a sheriff here subject to the order of the court. Not very long ago the court here made and entered an order and directed the sheriff to execute the same. The attorney-general's department issued an order to prevent him from obeying the court, thus creating a direct conflict between a subordinate department of the judiciary and the court through the sheriff. Our sheriff was not to blame particularly, since his appointment comes from the attorney-general and the order he was to obey issued from the court here.

This state of things grew out of the fact that under the oligarchy if a man should be fined \$5 or \$50 and did not pay the fine at once he was placed in the hands of the sheriff by virtue of a mittimus, and by and by, if he should pay the fine, the sheriff, instead of paying the money over to the clerk of this court and having the judgment against the man satisfied and closed, would send it to the high sheriff or to the treasurer of the Territory, and by that means the man was liberated from the custody of the sheriff and the judgment against him was left to stand open. If the court should see the defendant on the street and knowing the judgment was still open, he would,

naturally enough, not understand, nor could anyone explain the situation in the absence of the high sheriff. So you can see there is no occasion for a high sheriff. All process should run to the sheriff of the county or of the judicial district within which the court issuing the same is located. If counties were created, none of this would take place, of course.

Your committee also cites the following from the testimony of Mr. Philip Peck, one of the most prominent and thoroughgoing business men in the island of Hawaii, residing at Hilo. We quote from his testimony:

PHILIP PECK, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. PECK. Philip Peck; 63 years; resident of Hilo; banker.

Senator MITCHELL. How long have you resided in these islands?

Mr. PECK. Fifteen years.

Senator MITCHELL. You are acquainted, I presume, with the condition of affairs in these islands?

Mr. PECK. Tolerably well.

* * * * *

Senator MITCHELL. Do you and the people here generally favor the establishment of municipal and county organization?

Mr. PECK. I want to say for myself, being in the business I am in, that without it we are very awkwardly fixed, and it is only owing to the honesty of the people that we are not swindled more than we are. If we desire to make a loan to a person living here, we have to go to Honolulu for a title. We have no county records, and must send to Honolulu and wait for an answer.

Senator MITCHELL. In other words, the present system of government is an embargo on business?

Mr. PECK. It is, so far as we are concerned.

Senator MITCHELL. Were you acquainted with the provisions of the bill passed at the last legislature on the subject of county and municipal organization?

Mr. PECK. I have read that bill.

Senator MITCHELL. Are you in favor of something of that kind?

Mr. PECK. It is too voluminous; there might be a better bill than that. It is a bigger bill than the city of New York has for its municipality. There is too much of it.

Mr. E. Tappant Tannatt, a very intelligent civil and electrical engineer, American, long a resident of Hawaii, in his testimony before your committee, among other things, said:

Much of our local trouble results from the too general use of the word "may" by Congress, instead of the word "must." Had Congress made it compulsory that we have county and municipal government, I believe that to-day everything in Hawaii would have been working harmoniously; we would have money in our treasury, the feeling between the whites and Hawaiians would have passed away, and we would not to-day be flooded with oriental laborers in every walk in life.

For much valuable information bearing upon the necessity for the establishment of county, city, and town municipalities in Hawaii see testimony of Judge Humphreys, late a circuit judge, printed at length in the appendix accompanying this report. Attention is also called to various memorials and the testimony of numerous witnesses on the same subject (see Appendix), and the most of which strongly favors the organization of municipal governments. It is, however, proper to state that the leading officials of the Territory and many of the leading planters and other business men of Honolulu, while disposed to be somewhat reticent on the subject, evinced a strong disposition in opposition to the organization of municipal governments.

One reason urged (see testimony of Edwin S. Gill, Appendix) for the organization of municipal governments, or otherwise amendments to the organic act, is the fact that under existing law in Hawaii the Territory can not be sued for any cause or for any act. The monarchy

could not be sued, neither the Republic that succeeded it, nor can the Territory. Section 7 of the act providing a government for Porto Rico provides that the island and its inhabitants shall constitute a body politic "with power to sue and be sued." There is nothing of that kind in the Hawaiian act, nor is there anything in any of the Territorial legislation on the subject. Whether such authority should be conferred may be somewhat problematical—your committee submits the facts and the question for the consideration of the Senate without recommendation.

THE AMERICAN POLICY OF MUNICIPAL GOVERNMENT AS OLD AS THE HISTORY OF GOVERNMENT IN AMERICA.

From time immemorial in all well-regulated governments strenuous efforts have from the first been exerted to bring the instrumentalities through which governmental power is exerted into close proximity to the people upon whom such power is to operate. Just in proportion as are the agencies which administer the government remote from the people affected by that government, in the same proportion is the security of the individual, personal, and property rights of the people weakened and placed in jeopardy.

This principle is enunciated and approved by all the great publicists, jurists, and statesmen of the civilized world. To the fact that England in its earliest history established numerous local municipalities whereby the common people, through their representatives, imposed their own taxes for local purposes, and wherein numerous communities in England were schooled in the principles of self-government, are that people to-day greatly indebted for the security to personal and property rights now guaranteed to them by English laws. This has been the American policy, only in a more determined and emphatic sense, from the earliest period of settlements in America. The colonial legislature of Connecticut of two hundred and fifty years ago, in the year 1639, in one of its first acts, provided for the incorporation of all towns in the colony, and this was the policy adopted throughout New England; and Chancellor Kent, in discussing this policy and its operation and effect, said: "It had a benign and durable effect upon the institutions and moral and social character of the people." While the great jurist and chief justice, Ruffin, in treating of this subject, said:

From time immemorial the counties, parishes, towns, and territorial subdivisions of the country have been allowed, and indeed required by law, to lay taxes upon themselves for local purposes. It is most convenient that local establishments and the police should be sustained in that manner; and indeed to the interest taken in them by the inhabitants of the particular districts and the information upon the law and public matters generally, thereby diffused through the body of the people, has been attributed by profound thinkers much of that spirit of liberty and capacity for self-government through representatives which has been so conspicuous in the mother country and which so eminently distinguishes the people of America.

Judge Cooley, in his treatise on local municipalities and municipal government, says:

In America the first settlers, as if instinctively, adopted it in their frame of government, and no other has ever supplanted it or even found advocates.

In the examination of American constitutional law we shall not fail to notice the care taken and the means adopted to bring the agencies by which power is to be exercised as near as possible to the subjects upon which the power is to operate. In contradistinction to those governments where power is concentrated in one man or one or more bodies of men whose supervision or active control extends to all the objects of government within the territorial limits of the State, the American system is one of complete decentralization, the primary and vital idea of which is that local affairs shall be managed by local authorities and general affairs only by the central

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The following remarks of Judge Brown, a the supreme court of the State of New York, in discussing municipal government in England and America are specially noted in the constitution of the corporation to extend municipal government to the entire of Carroll County. Brown says:

[illegible]

Treating of the subject in similar cases. Family Division. Summary as follows:

[illegible]

President McNamara was very frank and forthright in his statement of the importance of the arms agreement in the context of the war. It was well to see from his following remarks that he was not in the least reluctant of War concerning the necessity to do a great deal of work in the future, not only to the Philippine Islands, but that other States and nations among other things.

1. The first step in the process of identifying a problem is to recognize that a problem exists. This involves gathering information about the situation and identifying the specific issue that needs to be addressed.

2. Once a problem has been identified, the next step is to define the problem clearly. This involves stating the problem in a concise and specific manner, identifying the scope of the problem, and determining the goals that need to be achieved.

3. The third step in the process is to generate potential solutions. This involves brainstorming ideas and considering different approaches to solving the problem. It is important to consider a wide range of options and to evaluate the potential benefits and drawbacks of each solution.

4. The fourth step is to select a solution. This involves evaluating the potential solutions and choosing the one that is most likely to be effective. This step requires careful consideration of the available resources, the time constraints, and the potential risks of each solution.

5. The final step in the process is to implement the solution. This involves putting the chosen solution into action and monitoring its progress. It is important to communicate the solution to all relevant parties and to ensure that everyone is working towards the same goal.

Governor Allen, of Porto Rico, in his first message of January, 1901, speaking of the then centralized system, and which corresponded with that now in existence in Hawaii, said: "There is no need of the cumbersome form of government which now obtains. It is expensive and elaborate."

Then, after recommending an increase in the municipalities consisting of first and second class cities and towns, he says: "Such a system will allow for less complex and less expensive government," and he adds further: The subdivision of the Island into counties would be desirable."

It is believed by your committee that the prevailing sentiment of a large majority of the people of Hawaii favors legislation providing for the organization of municipal, county, city, and town organizations, either by the local or general government. However, it is now believed that the next local legislature of the Territory, which meets in February, 1903, will provide for this, and in that event there will be no necessity for Congressional action. Should such action fail, however, by virtue of an executive veto, as at the last session of the legislature, or otherwise, then your committee earnestly recommends an amendment to the organic act, providing directly for county and municipal organizations in the Territory of Hawaii, or making it imperative on the Territorial government to do it.

JOHN H. MITCHELL,
JOSEPH R. BURTON,
ADDISON G. FOSTER,
JOSEPH C. S. BLACKBURN,
Subcommittee.

THE LABOR QUESTION.

Four committee was met while in the islands with a very earnest and persistent appeal upon the part of the sugar planters of the islands, and also upon the part of representatives of many industries dependent largely upon the success of the sugar industry, for a change in the existing Chinese restriction act, so as to permit a limited number of Chinese field laborers to come into the islands annually, under appropriate regulations for their return at the expiration of a limited number of years. This appeal was expressed very earnestly, both through memorials presented to your committee, containing statements of fact under oath upon which the appeal is based, and by the oral testimony of numerous witnesses. These memorials were from representatives of the Hawaiian Sugar Planters' Association, the Chamber of Commerce of Honolulu, the Merchants' Association of Honolulu, citizens of Hilo, Hawaii, representatives of the Rice Planters' (Chinese) Association, and many others. That the Senate may be fully advised as to the ground upon which these appeals for legislation admitting a limited number of Chinese field laborers into the Territory of Hawaii is based, your committee presents in the appendix hereto attached all the memorials, petitions, and statements upon this particular subject in extenso, and also such portions of other memorials as bear directly upon this question. These memorials, petitions, statements, etc., are as follows:

For the memorial of the trustees of the Sugar Planters' Association, see Appendix 1, Exhibit A.

For that portion of the memorial of the Chamber of Commerce of Honolulu which relates to the labor question, and in which the chamber recommends limiting Chinese field immigration, see Appendix, Exhibit B.

For that portion of the memorial presented to your committee by a committee representing the Merchants' Association of Honolulu which bears on this subject, see Appendix, Exhibit C.

For petitions containing the signatures of 158 persons, clerks, merchants, bankers, attorneys, contractors, druggists, and business men of the city of Honolulu presented to your committee, in which a strong appeal is made for more Chinese labor, see Appendix, Exhibit D.

For an extract from the memorial of the citizens of Hilo, Hawaii, see Appendix, Exhibit E.

For statement under oath made by Hon. Thomas Fitch, a prominent member of the bar in Honolulu, former Member of Congress from Nevada, see Appendix, Exhibit F.

For petition very numerously signed by prominent business men recommending Congress to permit the introduction of Chinese unskilled laborers for the cultivation of sugar, rice, coffee, and bananas, etc., see Appendix, Exhibit G.

For a memorial of the American citizens of respective terms of residence in Hawaii, with occupations set opposite their names, see Appendix, Exhibit H.

For a petition presented to your committee by six Chinese persons, being a committee representing the Chinese of Hawaii, praying that the doors may be partially opened to further Chinese immigration, see Appendix, Exhibit I.

Your committee also asks attention to the further numerous memorials, petitions, evidence, etc., presented to your committee, some in favor and some in opposition to the further introduction of Chinese laborers into the Territory of Hawaii. For statements upon the labor situation in the memorial of the Traders and Builders' Association in Honolulu, presented to your committee, in which it is strongly, inferentially at least, assumed that that association does not favor the immigration of Chinese laborers, see Appendix, Exhibit J.

For an anonymous communication submitted to your committee in opposition to further Chinese immigration, see Appendix, Exhibit K. This communication, it will be observed, is more in the nature of an argument than a statement of fact, and for this reason it is submitted for whatever it is worth as an argument on the important subject of Chinese immigration. Its statement of facts is only entitled to consideration in so far as it is supported by testimony given before your committee. The writer, it will be observed, gives at its conclusion his reason for withholding his signature.

For letter of E. De Harne, of North Kohala, Hawaii, see Appendix, Exhibit L.

For statement of the president of the board of immigration in Hawaii in his biennial report to the legislature of 1890, in which he discusses the question of Chinese immigration and opposes it, see Appendix, Exhibit M.

For a very interesting and able paper on the subject of Chinese immigration, entitled a "Reply of the cabinet to the petition of citizens of Honolulu regarding Chinese restriction," dated October 14, 1890, and signed by the then cabinet members of the monarchy, Jono Austin, minister foreign affairs; L. A. Thurston, minister interior; S. M. Damon, minister finance, and C. W. Ashford, attorney-general, see Appendix, Exhibit N.

For testimony of Henry E. Cooper, secretary of the Territory; L. E. Pinkham, Judge A. S. Humphreys, Francis Swanzey, W. G. Irwin, D. G. Camarinos, E. P. Dole, attorney-general; John M. Vivas, E. Tappan Tannatt, W. O. Smith, former attorney-general; A. N. Kepoikai, James L. Coke, J. W. Givin, Mr. Ahlo, Wong Leong, John E. Bush; also two letters of Wray Taylor, late secretary of immigration; letter of Byrom O. Clark, also a rejoinder to certain statements made before this committee (testimony of Judge Humphreys), letter of C. W. Miller, of the McBryde Sugar Company, addressed to the chairman of this committee, of date September 18, 1902, and reply of the chairman thereto of date September 22, 1902, see appendix following the exhibits above referred to.

Your committee can add little if anything to the arguments so fully and elaborately set forth in the paper, Appendix 1, Exhibit N, signed by the late Hawaiian cabinet in response to the urgent appeal made at that time for change in the Hawaiian constitution and laws so as to permit the entrance of Chinese cheap labor, this cabinet paper being in the nature of a protest against permitting Chinese labor to come to the then Kingdom of Hawaii in competition with white labor; and

although this protest against this appeal then made for legislation looking to the admission of Chinese laborers dates back thirteen years, your committee is constrained to believe, from all the facts presented to it from all sources, during the investigations of your committee, that the situation in Hawaii as to the necessity for more cheap labor is not very materially different from that in the islands at the time this reply was written by the then representatives of the Hawaiian Government. In fact, it is quite apparent the real necessity for more cheap labor at that date was much greater than at present, from the simple fact that at that time there were, all told, in the islands but a fraction over 15,000 Chinese and but 10,079 male Japanese, whereas, according to the census of 1900, there were 25,767 Chinese and 61,111 Japanese in the territory, to say nothing of a considerable increase since that date in laborers from the South Sea islands, negroes, Porto Ricans, Portuguese, and other nationalities.

According to the memorial presented to your committee, supplemented by the testimony of one of the leading representatives of the planters before your committee, that of Mr. Francis Swanzev (see Appendix), there are only about 38,000 oriental laborers employed in all at the present time in field work on the different plantations in the Territory, while the weight of testimony is to the effect that the total number of orientals now in the islands is about 86,878. Of these, as just stated, 25,767 are Chinese, and 61,111 are Japanese. This leaves 48,878 orientals, consisting of Japanese and Chinese, in the islands to be accounted for in some kind of employment, or no employment, outside of field work on any and all of the plantations in the Territory. One of two things, therefore, follows, as incontrovertible. Either these 48,878 orientals who are not employed in field work on the plantations are not employed at all and, therefore, a curse to the country, or otherwise in the main they must be employed in vocations not merely as laborers but in which skilled labor is employed, in which latter event they are not only coming in competition with white labor, but absolutely excluding white labor from the Territory; and that this is being done to a very large extent to-day in Honolulu, Hilo, and other principal cities and towns in the islands there can not be any question.

In this connection, however, it is proper to call attention to a statement made in a memorial of the Sugar Planters' Association submitted to your committee and in which there is some conflict with the foregoing statistics. The memorial states: "To show just what the conditions are in this respect it may be stated that from August 1, 1901, to June 3, 1902, 5,352 Japanese men arrived in the country, and 2,880 left the country, making the total increase in that period only 2,472; and that of Chinese, 188 arrived and 1,418 left, making a total decrease of 1,230; so there was a net increase of Japanese and Chinese population of only 1,242, not including women, which number are not necessarily field laborers alone."

According to the report of the governor of Hawaii, 1901, pages 63-64, under the head "Number and nationality of unskilled plantation laborers," the following data is given:

Year 1900-1901:	
Japanese	27,537
Chinese	4,979
Total number of Asiatics.....	32,513

employed in the Territory at that time as plantation laborers. While on page 5 of the same report a table showing the total number of Asiatics in the Territory appears as follows:

Japanese	61,122
Chinese	25,742

Total number of Asiatics in the Territory	86,864
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According to these figures there were in 1901 out of 25,742 Chinese then in the Territory but 4,979 laboring as unskilled laborers on the sugar plantations; this leaves 20,766 Chinese unskilled laborers in the Territory two years ago, not one of whom was employed as a laborer on the sugar plantations, and 33,585 Japanese laborers, not one of whom was employed on the plantations, or a total of Orientals, Japanese, and Chinese of 54,351, according to the figures of Governor Sanford B. Dole in his last annual report, not employed on the plantations. And if not on the plantations, where, your committee inquires, are they and what are they doing? Testimony adduced before your committee tends to show they are, the great majority of them, employed in skilled or semi skilled labor, thus coming into direct competition with and driving out of employment the whites, Hawaiians, Portuguese, Porto Rican, and negro laborers, in the business of merchants, hack drivers, artisans, mechanics, and other different kinds of avocations in the islands.

The president of the board of immigration in Hawaii in his biennial report to the legislature of 1890 in that portion in which he discusses the question of Chinese immigration said:

CHINESE IMMIGRATION.

The question of who should not be brought to this country is as important a one as is that of who should be brought here.

Although a number of the planters are in favor of meeting the labor question by bringing more Chinamen into the country, I do not hesitate to say that under present circumstances and laws the benefit to the planters would be of the most temporary kind, if any at all, and would eventually form a most suicidal policy for the country.

At the risk, perhaps, of being considered tedious, reference is hereby made to the reply of the cabinet to a committee of citizens concerning this subject in the fall of 1889. As that reply consists chiefly in a statement of facts bearing on this subject, it is printed herewith.

Mr. D. G. Camarinos, a very intelligent and educated Greek, being examined by your committee, stated that he was born at Sparta, Greece; that he was a commission merchant in Honolulu; that he had been in business more than twenty-five years on the Pacific coast; that he has done business for twenty years in the islands—sent California goods down and took Hawaiian bananas and pineapples back—and that he was the first man to introduce refrigerators aboard ships in the Pacific. Testifying further, said:

Now, I come to tell you a few interesting facts concerning the islands. These facts are the result of twenty years' experience. People discovered that there was money to be made in sugar. To make money in sugar they found out that Asiatic labor was good enough for them, and after they imported them by thousands under contract for a certain time they turned them loose like cattle when their terms had expired to enter the ranks of tradesmen to compete with white business men, to drive the white men from the country by their cheap methods and slavish principles. Look at the restaurants in Honolulu. It is funny to see such signs up as "The Dewey" or "Uncle Sam's" restaurant, or other restaurants run under American patriotic names. You enter the restaurants and find that Chinese are running them. It is the same in most of the restaurants, stores, offices, and other establish-

ments of the city. Where you do not find Oriental managers you find Asiatic employees. The Asiatics are our carpenters, our drivers, our salesmen, our cooks, our servants, our gardeners, our grocers, our tailors, our farmers. God knows what they will be next. They may be our masters yet.

The American flag flies over Hawaii, but where are the Americans? The Chinese are our agriculturists. They raise our vegetables. They work our sugar plantations. They force the white man out of business. The Chinese and the Japanese are our clerks and our tradesmen. Whose fault is it? Is it not the fault of the blind element which is so taken up with sugar interests that they forget the good of the islands? To quote a popular Hawaiian phrase, the Orientals have Hawaii by the Okole. They are the bees; we are the honeysuckle. They sap the strength of the island and the white man is not in it.

The Asiatics control the business of the town. They run the fish markets, the fruit markets, butcher shops, tailor shops, poi shops, carpenter shops, groceries, and restaurants. They live on almost nothing and work for little. White mechanics and their families are leaving Honolulu by every steamer, and the Asiatics are responsible for this sad, discouraging state of affairs. Look at the city directory and you will be convinced of the majority of the Asiatics over the white and native people. Are we to have the American flag floating over a horde of cheap Oriental slaves that discourage American workmen? As long as the Asiatics are running the country this can not be a white man's land. White mechanics are leaving the country on account of cheap Chinese and Japanese labor, and now you can talk about your hard times.

In traveling around the islands I met several drummers from the mainland, and their business was so extensive with the Japanese and Chinese that they were under the impression that there were no white people here at all.

The Portuguese who came here under contract to work on the plantations are all leaving for California on every steamer. After their terms on the plantations had expired they drifted to Honolulu and invested in a home with all their savings, then set about to raise fruit, grapes, figs, etc., to supply the transport trade; but they soon found out that they could not compete with the Asiatics, and were forced out of business.

For his full testimony see Appendix —.

Your committee invites special attention to the following extract from the protest of the Hawaiian Cabinet, Appendix 1, Exhibit N, hereinbefore referred to, as follows:

The license employment statistics show that in the twenty-three years from 1866 to 1889 the Chinese have increased at such a rate from almost nothing that they now hold 10.9 per cent, or one-ninth, of the drivers' licenses; 18.2 per cent, or a fraction over one-fifth, of the dray licenses; 20.6 per cent, or a fraction over one-fifth, of the butcher licenses; 23.5 per cent, or a fraction under one-fourth, of the wholesale merchandise licenses; 27.9 per cent, or over one-fourth, of the hack licenses; 38.2 per cent, or over one-third, of the horse-hiring licenses; 57 per cent, or over one-half, of the wholesale spirit licenses; 62 per cent, or five-eighths, of the retail merchandise licenses; 84.7 per cent, or seven-eighths, of the victualing licenses; 91.8 per cent, or over nine-tenths, of the pork-butcher licenses; 100 per cent, or all, of the cake-baking licenses.

An endeavor has been made to ascertain the number and nationality of those engaged in mechanical employments in the country. As the census returns do not give this information, recourse has been had to the registry of voters for 1887 and to circulars addressed to the principal employers of labor in Honolulu.

The results obtained are not sufficiently exact to be taken as perfectly reliable, but they are sufficiently certain to warrant the statement that there are in Honolulu now about 700 Hawaiian and foreign mechanics and skilled laborers other than Chinese and about 600 Chinese engaged in the same employments.

In the light of history, with the experience of what has happened and is now happening in other countries, the ministers feel justified in saying that unless adequate measures are adopted oriental civilization will extinguish and be substituted for the Anglo-Saxon civilization of this country.

The secretary of the Territory, Henry E. Cooper, while testifying before your committee, and giving his reasons and those of the planters for praying legislation permitting Chinese immigrants of the laboring class, made a statement which shows clearly how

BOTH POLITICAL PARTIES IN HAWAII DECLARED IN FAVOR OF COUNTY, CITY, AND TOWN MUNICIPALITIES IN 1900 AND 1902.

In the platform of the Republican party in Hawaii, in May, 1900, there was the following plank:

We favor the speedy enactment of laws for the establishment of such county and municipal governments as may be necessary to bring the conduct of our local affairs into full accord with the theory of American institutions and the principles of home rule.

A plank substantially similar was in the platform of the Home Rule party of that year.

A substantially similar plank was also in each of the platforms of the two political parties (Republican and Home Rule) in the recent campaign in Hawaii. That in the Republican platform read as follows:

We favor the speedy enactment of laws for the establishment of such county and municipal governments as may be necessary to bring the conduct of our local affairs into full accord with the theory of American institutions and the principles of home rule. [See Appendix.]

An interesting letter on this subject, as also on several others in connection with the government of Hawaii, is one written by F. L. Winter, of Wainaku, Hilo, September 3, 1898, to Senator S. M. Cullom, chairman of the Hawaiian Commission, and a copy of which was submitted by Mr. Winter to your committee and is published at length in the appendix accompanying this report. [See appendix.]

Bearing upon the question of the advisability and necessity of the organization of municipal, city, and county governments in these islands, we ask attention to the following testimony of Judge Gilbert F. Little, taken at Hilo, Hawaii, September 18, 1902:

Senator MITCHELL. Judge, is there anything that occurs to you as a citizen of this Territory that you would like to mention or call attention of the committee to here in addition to what you have said?

A. I think we should have an express recommendation from the committee in the proper manner and at the proper time in the interest of county government. When I had the honor of representing the Americans during the first session of the Fifty-sixth Congress in Washington, when our act to provide for a government of the Territory of Hawaii was under consideration, I made a strenuous effort to have section 56 of the act amended to read as follows: "That the legislature shall, at its first session, create counties, town, and city municipalities within the Territory of Hawaii and provide for the government thereof."

The Senate passed the section as above, but the House amended the Senate bill by striking out all after the enacting clause and substituting the House bill, and section 56 was finally passed as it now reads. We have no county government under the organic act, and we are therefore suffering from some of the most incongruous conditions. For instance, we have a high sheriff, which acts like the fifth wheel in a wagon. He resides in Honolulu and assumes to have charge of the other sheriffs. We have a sheriff here subject to the order of the court. Not very long ago the court here made and entered an order and directed the sheriff to execute the same. The attorney-general's department issued an order to prevent him from obeying the court, thus creating a direct conflict between a subordinate department of the judiciary and the court through the sheriff. Our sheriff was not to blame particularly, since his appointment comes from the attorney-general and the order he was to obey issued from the court here.

This state of things grew out of the fact that under the oligarchy if a man should be fined \$5 or \$50 and did not pay the fine at once he was placed in the hands of the sheriff by virtue of a mittimus, and by and by, if he should pay the fine, the sheriff, instead of paying the money over to the clerk of this court and having the judgment against the man satisfied and closed, would send it to the high sheriff or to the treasurer of the Territory, and by that means the man was liberated from the custody of the sheriff and the judgment against him was left to stand open. If the court should see the defendant on the street and knowing the judgment was still open, he would,

naturally enough, not understand, nor could anyone explain the situation in the absence of the high sheriff. So you can see there is no occasion for a high sheriff. All process should run to the sheriff of the county or of the judicial district within which the court issuing the same is located. If counties were created, none of this would take place, of course.

Your committee also cites the following from the testimony of Mr. Philip Peck, one of the most prominent and thoroughgoing business men in the island of Hawaii, residing at Hilo. We quote from his testimony:

PHILIP PECK, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. PECK. Philip Peck; 63 years; resident of Hilo; banker.

Senator MITCHELL. How long have you resided in these islands?

Mr. PECK. Fifteen years.

Senator MITCHELL. You are acquainted, I presume, with the condition of affairs in these islands?

Mr. PECK. Tolerably well.

* * * * *

Senator MITCHELL. Do you and the people here generally favor the establishment of municipal and county organization?

Mr. PECK. I want to say for myself, being in the business I am in, that without it we are very awkwardly fixed, and it is only owing to the honesty of the people that we are not swindled more than we are. If we desire to make a loan to a person living here, we have to go to Honolulu for a title. We have no county records, and must send to Honolulu and wait for an answer.

Senator MITCHELL. In other words, the present system of government is an embargo on business?

Mr. PECK. It is, so far as we are concerned.

Senator MITCHELL. Were you acquainted with the provisions of the bill passed at the last legislature on the subject of county and municipal organization?

Mr. PECK. I have read that bill.

Senator MITCHELL. Are you in favor of something of that kind?

Mr. PECK. It is too voluminous; there might be a better bill than that. It is a bigger bill than the city of New York has for its municipality. There is too much of it.

Mr. E. Tappant Tannatt, a very intelligent civil and electrical engineer, American, long a resident of Hawaii, in his testimony before your committee, among other things, said:

Much of our local trouble results from the too general use of the word "may" by Congress, instead of the word "must." Had Congress made it compulsory that we have county and municipal government, I believe that to-day everything in Hawaii would have been working harmoniously; we would have money in our treasury, the feeling between the whites and Hawaiians would have passed away, and we would not to-day be flooded with oriental laborers in every walk in life.

For much valuable information bearing upon the necessity for the establishment of county, city, and town municipalities in Hawaii see testimony of Judge Humphreys, late a circuit judge, printed at length in the appendix accompanying this report. Attention is also called to various memorials and the testimony of numerous witnesses on the same subject (see Appendix), and the most of which strongly favors the organization of municipal governments. It is, however, proper to state that the leading officials of the Territory and many of the leading planters and other business men of Honolulu, while disposed to be somewhat reticent on the subject, evinced a strong disposition in opposition to the organization of municipal governments.

One reason urged (see testimony of Edwin S. Gill, Appendix) for the organization of municipal governments, or otherwise amendments to the organic act, is the fact that under existing law in Hawaii the Territory can not be sued for any cause or for any act. The monarchy

roofed over, so that the ground in most blocks was practically a stranger to the sun.

"Under the conglomeration of structures were the cesspools, receiving from day to day and retaining from night to night the waste of thousands of human beings, and some horses, dogs, and chickens. In most cases the floors were directly on the ground, so that there was no ventilation under the houses. As many of the cesspools were overflowing the soil, consequently the floors were covered with filth. Cesspools were hidden under floors and in other inaccessible places, consequently many of them were never emptied. Many of them were uncovered, consequently the foul gases came up through the floors and into the houses. Plague lives and breeds in filth, and when it got into Chinatown it found its natural habitat."

It is very evident that but for "Chinatown" in the city of Honolulu that city would not have been visited with the bubonic plague in 1899-1900, and which resulted in the deliberate destruction of a large amount of property by the board of health, and for which claims to the aggregate amount of \$3,175,132.90 were presented to the local government, of which amount \$1,473,173 has been allowed and payment of which is now being pressed on Congress.

A glance at the number of people of different nationalities now constituting the total population of Hawaii, and a comparison of the increase and decrease, respectively, of these different nationalities from year to year, will clearly indicate how rapidly these islands, in so far as the population is concerned, are being deamericanized and passing under the control and dominion, in so far as the question of labor is concerned, and in so far as almost every other institution is concerned, of the Oriental races.

The important problem therefore presented to the American people and to the American Government for solution is as to whether in the best interests, not only of the people of the islands, but of the civilization for which America stands to-day in all its dominions, whether on the mainland or in its insular possessions, it is best to further legislate in that direction that will facilitate the rapid and early approach of the hour when the absolute dominion of these beautiful and prolific islands shall be of the policies and practices of orientalism, when all the policies and practices shall be made subservient to Asiatic dominion.

The total population of the Territory, according to the census of 1900, was 154,001; of these, as has been stated, 25,767 are Chinese and 61,111 are Japanese, or a total from these two Asiatic countries of 86,878.

It is the opinion of your committee that although a temporary benefit might result by legislating in favor of an increase of cheap labor to those at present engaged in developing and operating the sugar plantations of Hawaii, and for which they are entitled to great credit, that this benefit would only be temporary, and in the end such a policy would result in so orientalizing the islands as to bring about a condition that would result eventually to the great detriment of the very best interests of the enterprising men now engaged in this great industry.

The Hawaiian Commission of 1898, in the report of the subcommittee of this Commission, composed of Senators Cullom and Morgan and Governor Dole, stated the true American policy on the subject of excluding from this country alien labor which might compete with the

wages of American laborers in any of the avocations of life, in these words:

The policy of the United States in regard to the introduction of alien labor which might compete with the wages of the American laborer in any of the avocations of life, except those where skilled labor is required, is very clear and emphatic. Your committee is of the opinion, therefore, that the enforcement of the present United States laws regarding alien laborers, with the application of the American policy of fostering the interests of the individual citizens instead of promoting undue accumulations of corporate capital or the extension of corporate powers in the control of large tracts of land, and with such other legislation, either Territorial or national, as experience and good judgment may have indicated, so as to make the whole of the Territory accessible by good roads, and arid lands available for settlement by means of irrigation, the whole country may then become a desirable place for the development of American citizenship.

Your committee, therefore, is of the opinion that it is not wise to open the doors further than they are now open to the introduction of Chinese cheap labor into the islands of Hawaii. The doors are now wide open to Japanese cheap labor. They are substantially closed to Chinese labor. Your committee, therefore, is unable to see its way clear to recommend as a committee any change in the existing Chinese inhibitory legislation in the islands of Hawaii, and it is the opinion of your committee, except in so far as any dissent may be recorded hereafter by any of its members, that the best interests, not only of the Territory of Hawaii and the people thereof, including the sugar planters, but of the United States, do not call for any legislation that would increase the immigration of Chinese cheap labor into the islands of Hawaii. While for the past year the sugar planters in Hawaii have been struggling with somewhat adverse industrial conditions, it is hoped and believed by your committee that these conditions are only temporary. There is at present a strong tendency to increased prices of raw sugar owing to increased consumption and a shortage in the world's production; moreover, it is believed a systematic and determined effort to such end on the part of planters would result in procuring all plantation labor required at reasonable rates from the negro population of the Southern States.

JOHN H. MITCHELL.
ADDISON G. FOSTER.

VIEWS OF THE MINORITY.

It is with deep regret that I feel compelled to dissent from that part of the foregoing report on the labor question.

I believe that a careful investigation of the evidence taken will disprove instead of sustain the report. It is not my purpose to do more at this time than to briefly state some of the reasons why I can not agree with my associates on this subject. There are some indisputable facts that the report does not even mention.

First. It is a well-known fact that the country over there was very prosperous when it was a kingdom, and continued very prosperous under the provisional government and under the republic. Its period of decline began with annexation, and matters have gone on under annexation from bad to worse until to-day the specter of hard times is found everywhere throughout the islands.

Another very important fact is that the report nowhere suggests any remedy for this unfortunate condition.

A careful perusal of all the evidence taken, I think, will warrant the assertion that a very large majority, safely placed at nine-tenths of all the people, including native Hawaiians and white men, are in favor of restricted Chinese immigration as the one remedy for a return of their material well-being.

Another significant fact that I think can not be disputed is that neither the native Hawaiians nor the white man will work in the cane fields and on the lowlands in Hawaii. The native Hawaiian is not a product of the Tropics, but is, like the white man, a product of the temperate zone. There is no Malay blood in his veins. Another fact that I think will not be disputed is that the field labor, if performed at all in the islands, will be performed only by orientals.

The Kingdom of Hawaii from time to time appropriated large sums of money for the purpose of importing field laborers into the islands.

The planters supplemented these appropriations with very large donations. These experiments covered a period of many years. Laborers were brought there from a great many different countries, including the Portuguese, Porto Ricans, American negroes, some from the Straits Settlements and from other countries; but without exception they have all proved unsatisfactory except the orientals.

Much stress is laid in the report on the report of the president of the board of immigration of the Kingdom of Hawaii, made in 1890, on this subject, and more still to the reply of the cabinet of the then king, Kalakaua, against the admission of Chinese and Japanese into the kingdom. The statement is made in the foregoing report that conditions in 1890 were not dissimilar from what they now are. It might be a sufficient answer to everything that is said in the report to call attention to the fact that every man who is now living who was a member of the king's cabinet in 1890, and signed the reply referred to, is now ardently in favor of admitting Chinese to the islands for the purpose of performing agricultural labor; and further, that whereas the kingdom in 1890 was very prosperous, the Territory of Hawaii is now in a state of commercial and financial collapse.

But the reason for the reply made by the cabinet in 1890 should be inquired into. It will not be found in the foregoing report, but it is not a secret. In 1890 the Kingdom of Hawaii was dominated by the missionary or American element (I use the word "missionary" in a political and not in a Christian sense), and great apprehension prevailed at that time that Japan had designs on the islands—that it was the purpose of that country to flood the islands with Japanese, and in time take the country over as a part of the Japanese Empire. It was then, as it has been for years, the wish of the American element referred to to save the islands for the United States; and now that that wish has been gratified, and Hawaii is no longer in fear of capture from Japan or any other country, these same men, who were then cabinet ministers, say to us, "Give us restricted Chinese immigration."

The census of 1890 is pointed to to show the large number of Orientals in the islands, and figures are therein given to show that a large number of these Orientals are engaged in other than agricultural labor, but the real reason why the country needs Chinese immigration is hidden in these generalities.

To appreciate the situation there properly it is well to remember that under our treaty with Japan the Japanese have free entrance to the islands, as they have to the mainland; also it is well to bear in

mind the other important fact that the Chinese are leaving the country by every ship that is bound for the Orient. The question then is not between the white man or the native Hawaiian and the Oriental for field labor, but it is between the Chinese and the Japanese. The Chinese are leaving, the Japanese are coming. With unrestricted Japanese immigration they are coming and invading all fields of labor. The native Hawaiian is being driven from the sea, as a fisherman, by the Japanese. They are entering every field of labor, and driving out the native Hawaiian and the white man. Restricted Chinese immigration will tend to check the influx of the Japanese.

It is the universal evidence that came to us from every quarter that, as between the Chinese and the Japanese, the former were far preferable in every way, and I submit, if this be true, that no valid reason can be given against allowing Chinese to come to the islands to perform agricultural labor when the Japanese may come for any purpose.

If Chinese are permitted to come, under a well-guarded law to perform only agricultural labor, there will be absolutely no danger that they can ever de-Americanize the islands; but if some check is not placed upon the unrestricted coming of the Japanese by some potential influence like the admission of the Chinese, for the purpose stated, there is very great danger that the Japanese may de-Americanize the islands.

In the foregoing report mention is made, that to admit the Chinese for agricultural purposes would be a precedent, and that the American farmers and fruit growers on the Pacific coast and Western States would soon be knocking at the doors of Congress to admit Chinese laborers to the mainland; but in making this kind of an argument the very important fact seems to have been lost sight of, namely, that the white man will work in the sun on the mainland, and that the ranks of labor on the mainland can be recruited from that source, and that the white man nor the native Hawaiian will work in the sun in a tropical climate. Labor may be scarce at times in sections of the mainland, but it can be obtained from the white race; field labor in Hawaii can not be obtained from this source.

Heretofore our legislation has had to do with people who live only in a temperate zone, but recently we have acquired possessions in the Tropics. Must it be said that legislation for the Tropics is to be the same as legislation for the mainland? As well might you say that the liquor laws which are wholesome for a State like Kansas would be best for a city like New York.

The labor laws that are wholesome for the people in this country on the mainland can never be made operative, in my opinion, in a country like Hawaii, without utterly destroying the industries of that Territory. Organized labor should be just as much interested in admitting Chinese restricted immigration to Hawaii as it is opposed to the admission of Chinese to this country to perform any kind of labor. Organized labor has not within its ranks anywhere, on the mainland, a single laboring man who will go to Hawaii and work on the lowlands in that country.

Much has been said about the interest of the sugar planters in this question. True, sugar now is the principal product of the islands, but it should not be forgotten that the sugar stocks are owned, substantially, by all classes of people over there, and that almost every plantation has had to pass its dividends for the past two years. Work has very largely ceased for skilled labor; there is nothing doing, every industry is prostrated, and, as I have heretofore said, the remedy sug-

gested by nearly everybody over there is restricted Chinese immigration. And unless some other remedy can be given to relieve the deplorable situation, this one, that the people believe in, should at least be tried.

One other reference to a statement in the report, and I have done: The responsibility for the bubonic plague is placed at the door of the Chinese. This, in my opinion, is unjust. True, the plague broke out in the then Chinese district of the city, but up to that time, and at this time, there is no municipal government in Honolulu, or in any part of the islands, and until quite recently there was no system of sewerage of any kind in Honolulu, and the rulers in that country are plainly responsible for allowing such a condition of things to exist.

However, there is no contention for the admission of Chinese to again congregate in cities, and it does seem like straining a point to use the bubonic plague as an argument against allowing Chinamen to come to Hawaii to work on the farms and plantations.

I believe that a law can be carefully framed admitting Chinese to Hawaii, to perform agricultural labor only, with sufficient safeguards prohibiting them from performing any other kind of labor, under the penalty of immediate deportation in case any attempt is made to violate such law, or in case any attempt is made to leave Hawaii for the mainland or for any other of our possessions, and if that law, carefully framed, should be administered by the Bureau of Immigration of the Treasury Department, it would work a vast benefit to labor and capital alike, and would serve to speedily revive the prostrated industries of the Hawaiian Islands, and so believing I can not give my assent to the foregoing report.

JOSEPH R. BURTON.

I concur in the above views of Senator Burton.

JOSEPH C. S. BLACKBURN.

PUBLIC LANDS.

One of the most difficult of solution is the problem relating to the public lands of Hawaii. The question confronting Congress is as to what legislation, if any, is advisable in reference to the disposition of the public lands of the Territory.

First. Shall the present system, established under the Republic, mainly by the act of 1895, and which was substantially incorporating into one act the old land laws of the monarchy, and perpetuated by the organic act in the Territorial government, be continued, which system your committee believes to be both unwise and of very doubtful constitutionality, or shall it be changed, and if so, in what respect?

Second. Shall the control and disposition of the public lands in Hawaii be left as now to the Territorial government, or shall the Federal Government assume direct control and disposition?

In order to reach an intelligent conclusion on this question, it is well to consider not only the present area, but the topographical and geological character of the public lands in that Territory and their adaptability to different kinds of productions and the manner in which the public lands of the United States in the Territory are now being controlled, managed, and disposed of by the local government.

For the convenience of the Senate, your committee makes the Hawaiian land act of 1895 a part of the appendix accompanying this report, and to which attention is attracted. (See appendix.)

Bearing upon the general subject of public lands in Hawaii and the surveys thereof that have been made from time to time, attention is invited to the communication of Walter E. Wall, present surveyor of the Territory of Hawaii, dated Honolulu, September 22, 1902, and addressed to your committee; also to a communication of Mr. W. D. Alexander, assistant in the United States Coast and Geodetic Survey, dated Honolulu, September 25, 1902, and addressed to your committee (see appendix); also to numerous memorials and petitions, and testimony of numerous witnesses, all of which relate to the system in operation in Hawaii and to its administration, all of which will be found in the Appendix.

By section 73 of the organic act for Hawaii, approved April 30, 1900, it is provided, among other things, as follows:

That the laws of Hawaii relating to public lands, the adjustment of boundaries, and the issuance of patents on land-commission awards, except as changed by this act, shall continue in force until Congress shall otherwise provide.

And further—

That, subject to the approval of the President, all sales, grants, leases, and other dispositions of public domain and acknowledgments concerning the same, and all forms granted by the Hawaiian government, in conformity with the laws of Hawaii, between the 7th day of July, 1898, and the 28th day of September, 1899, are hereby ratified and confirmed. * * *

And further—

And no lease of agricultural land shall be granted, sold, or renewed by the government of the Territory of Hawaii for a longer period than five years until Congress shall otherwise direct.

It is further provided in this section as follows:

That all funds arising from the sale or lease or other disposal of such lands shall be appropriated by the laws of the government of the Territory of Hawaii and applied to such uses and purposes for the benefit of the inhabitants of the Territory of Hawaii as are consistent with the joint resolutions of annexation approved July 7, 1898, provided there shall be excepted from the provisions of this section all lands heretofore set apart or reserved by Executive order or orders by the President of the United States.

While, by section 74 of the same act, it is provided—

That the laws of Hawaii relating to agriculture and forestry, except as changed by this act, shall continue in force subject to modifications by Congress or the legislature.

The only things in which it is otherwise provided as in these two sections relate mainly to unimportant matters, such as the words "land patents" shall be substituted for "royal patents," and "commissioner of public lands" substituted for "minister of the interior," and substituting "commissioner of agriculture and forestry" for "bureau," and the like.

The total area of the public domain in Hawaii is comparatively small, even when compared with that Territory on the mainland having the least area of public land. At the date (March 18, 1848) when King Kamehameha III made the great division of the public lands of the Kingdom the total area consisted of 4,126,600 acres, and these were divided into four divisions as follows:

	Acres.
Government lands	1, 495, 000
Crown lands	984, 000
Chiefs' lands	1, 619, 000
Kuelanas' (ordinary tenants) lands.....	28, 600
Total	4, 126, 600

Since the date of annexation all these crown lands have become a part of the public domain belonging to the United States, and, in view of the organic act, are disposed of by the United States through and by the Territorial government, and the funds arising therefrom are used for public improvements, the proceeds thereof being kept in two separate funds by the Territorial government, one designated as the "land-reserve" fund and the other "land-sales" fund. The moneys in this latter fund are deposited in the treasury of the Territory as a sinking fund, and the money arising from leases and held in the land-reserve fund goes to public ways, schoolhouses, etc.

There seems to be some indefiniteness, however, and contradiction of statement from the land-office officials in Hawaii in regard to the present number of acres of public lands in Hawaii. Hon. E. S. Boyd, commissioner of public lands, in a protest presented to the Senate Committee on Pacific Islands and Porto Rico, at Washington, D. C., on the 6th day of February, 1902, made the following statement:

There are in round numbers about 1,720,000 acres of public lands, and it might seem that some considerable portion would furnish a field for new efforts to make homesteads; but such inference I can not draw. At least 500,000 acres of this area are in the class of positively barren land that can not be reclaimed and rugged, inac-

possible mountain tracts that are apparently hopeless for homestead purposes. Over 200,000 acres are classed as grazing and high forest lands.

No one would be so rash as to say there are no agricultural possibilities for at least a portion of this area. The fact remains that such possibility has never been demonstrated by any profitable use of the same. There remain about 200,000 acres to be considered. About 26,603 acres of this last are cane and rice lands. The remainder is, in general, not so good as the lands already disposed of, being more broken and difficult of access. Unless some new and productive industry is developed in this country it is difficult to say why future results should differ greatly from those of the past; at least, I do not expect to see much difference.

While in his testimony given before the subcommittee at Honolulu, September 8, 1902, he testified as follows:

Senator MITCHELL. Can you approximate in the first place about the total number of acres in the Territory, without regard to the use to which they may be put? What is the aggregate acreage of public lands in Hawaii?

Mr. BOYD. The total acreage is about 200,000 acres.

While Hon. J. F. Brown, former agent of public lands and subsequently commissioner of public lands, in a statement made by him December 12, 1899 (see Senate Doc. No. 72, first session Fifty-sixth Congress), gave the total combined area of government and crown lands by the original decree in 1848 to be 2,479,600 acres, and that it had been disposed of between 1848, the date of the division, and December 12, 1899, three years ago, and for which patents had been issued on 728,200 acres, leaving a total area of public lands undisposed of in the Territory three years ago of 1,751,400 acres, less lots then taken up but not yet then patented, as follows:

	Acres.
Old homesteads	2, 670. 05
Old special agreement sales	610. 40
Under land act (not patented)	28, 005. 33

which, deducted from the above, leaves a balance undisposed of and unoccupied, December 12, 1899, of 1,720,055 acres.

This accords positively with the statement of Commissioner Boyd, made before the full committee at Washington, D. C., February 6 last, except that this statement made no allowance for lands disposed of between December 12, 1899, and February 6, 1902.

Soon after this division of the public lands in 1848, the Hawaiian Government commenced selling at private sale those lands under its control and at very low rates, ranging from 12 cents to \$1 per acre. These lands were selected and surveyed by the purchaser, not by the Government, and in this way large portions of the best acres of the public lands were disposed of at a very low price. In 1876 an act was passed requiring all sales and leases of public lands over \$300 in value to be sold at public auction, and the provisional government in 1893 required all sales and leases of every kind to be made at public auction after thirty days' notice. The land act of 1895, however, under the Republic, and which now constitutes in the main the land laws of Hawaii, divided the public lands into five classes, as follows:

I. Agricultural lands, first-class: This included lands suitable for the cultivation of fruit, coffee, sugar, or other crops cultivated with or without irrigation. Second-class: This included lands suitable for cultivation of annual crops only; while the third-class included what are known as "wet lands," such as are adapted to the raising of kalo and rice.

II. Pastural lands, first-class: This included lands not in the description of agricultural lands, but susceptible of providing for live stock the year round. Second-class included lands capable of supplying live

stock only part of the year, or which were otherwise inferior to first-class pastoral lands.

III. Pastoral agricultural lands: This included lands suitable in part for pasturage and in part for cultivation.

IV. Forest lands: This division included forest-producing lands, and which are unsuitable for cultivation.

V. Waste lands: This was intended to include all lands not included in any other class.

By this act the Government, through its commissioner, is authorized to dispose of lands by seven different modes:

First. By public auction, for cash, in parcels of not over 1,000 acres.

Second. At public auction, partly on credit, in parcels consisting of not over 600 acres. The consent, however, of the executive council (this refers to the executive council under the late monarchy) is required to authorize the disposal of lands under this and the preceding subdivision.

Third. Without auction sale, in exchange for private lands or by way of compromise.

Fourth. By lease at public auction for terms not exceeding twenty-one years.

Fifth. Homestead leases.

Sixth. Right of purchase lease.

Seventh. Cash freeholds.

As to the general qualification of applicants for land under these several modes and for a particular description of the right of applicants and the mode of procedure, your committee calls attention to the report of the subcommittee, composed of Senators Cullom and Morgan and Governor Dole, of the Hawaiian Commission, pages 97-101, inclusive. [See appendix.]

From what has been said it is clearly evident that the policy as to the control and disposition of the public lands in Hawaii is in direct opposition to the policy of the General Government of the United States. The policy in the United States, so far as possible at the present time, being to preserve the public domain for homesteaders and to utilize it in the establishment of homes throughout the country, whereas the policy of Hawaii, now being enforced, seems to be to utilize the public domain solely for the purpose of revenue, and consequently but very little of the public lands are being sold, but large tracts placed under long leases, a policy which, in the judgment of your committee, should not be continued under any circumstances or for any length of time.

THE LEASE SYSTEM IS OBJECTIONABLE.

During the fiscal year ending June 30, 1902, there were executed by the Territorial government at least 13 general leases of lands to as many different persons (5 of them corporations), 4 of them for the term of twenty-one years, 1 for ten years, 8 for five years, and covering an aggregate of 53,889.80 acres, aggregating an annual rental of but \$17,460.

The following table, showing these facts, with explanatory note by Commissioner Boyd, is taken from the last annual report of E. S. Boyd, commissioner of public lands for Hawaii, showing the land transactions in the Territory for the year ending June 30, 1902, and showing the lands taken up under the various systems of the land act

of 1895 (see last report of Governor Sanford B. Dole to Secretary of the Interior, of date September 30, 1902, p. 22):

General leases.

Date of lease.	Lessee.	Location.	Area.	Term.	Annual rental.
			<i>Acres.</i>	<i>Years.</i>	
Sept. 24, 1901	Samuel Kauhane.....	Manuka, Kau, Hawaii	22,800.00	10	\$75
Dec. 21, 1901	Chin Wo Co	Palama-kai, Honolulu, Oahu ..	17.80	5	285
Nov. 30, 1901	Waianae Co	Lualualei, Waianae, Oahu (cane land).	3,332.00	5	9,000
Feb. 26, 1902	Onomea Sugar Co	Kaapoko, Hilo, Hawaii	160.00	5	520
Do.....	H. P. Baldwin	Koolau, Maui	12,500.00	21	1,100
Do.....	do	do	6,500.00	21	4,000
May 24, 1902	R. R. Hind	Kahel, Kohala, Hawaii (cane land).	455.00	5	900
Do.....	do	do	86.00	5	100
Do.....	do	Opihipe, Kohala, Hawaii (grazing land).	419.00	5	314
Do.....	do	Hukiaa, Kohala, Hawaii (grazing land).	380.00	5	266
Do.....	Hutchinson Sugar Plantation Co.	Kioloakaa-Pumakaa, Kau, Hawaii.	5,000.00	21	200
Do.....	Pepeekeo Sugar Co	Kaupakuea, Hilo, Hawaii (cane land).	210.00	5	600
June 28, 1902	A. C. Dowsett	Wailau, Molokai	2,000.00	21	100
	Total		53,889.80		

An annual rental of \$17,460, or $3\frac{2}{5}$ cents per acre, per annum, but this is the average of all, and it is conceded that about 4,000 acres of this land is good cane land, worth hundreds of dollars per acre, while 22,800 acres of the 53,889.81 acres leased were let for \$75 per annum, or a fraction less than $3\frac{1}{4}$ mills per acre, while another tract of 12,500 acres rented for \$1,100 per annum, or a fraction less than 9 mills per acre, while still a third tract of 5,000 acres rented for \$200 per annum, or 4 cents per acre.

It will be seen, therefore, that the area included in leases executed in the nine months from September 24, 1901, to June 28, 1902, both days inclusive, was 53,889.80 acres.

This report shows some most astounding facts and illustrates in the most forcible manner the pressing necessity, in the public interests, in a sudden halt in the system of leasing the public domain under which such transactions are possible.

Attention is called to the fact that the lease to Samuel Kauhane of date September 24, 1901, for lands in Manuka, Kau, Hawaii, included the enormous area of 22,800 acres, the lease being for the term of ten years, and the annual rental of which is but \$75 or about $3\frac{1}{4}$ mills per acre.

Or, in other words, a lease of the public domain is here executed, covering 22,800 acres of the public domain, for the period of ten years, the Government receiving as rent therefor the sum of only \$750 for the whole ten years. The commissioner, evidently astounded at the unreasonableness of the transaction on its face, deemed it necessary to explain in the note attached to the table and a part of his report. The explanation of Commissioner Boyd does not seem to be very satisfactory, as he concedes that about 500 acres of this tract is fairly good grazing land.

Attention is again called to the lease of two tracts to H. P. Baldwin, dated February 26, 1902, for land in Hoolau, Maui, which covers

19,000 acres, the lease being for twenty-one years and the annual rent but \$5,100.

Also to the lease to the Hutchinson Sugar Plantation Company, dated May 24, 1902, in Kiolakaa-Pumakaa, Kau, Hawaii, which includes 5,000 acres, the lease being for the term of twenty-one years at the low rental of \$200 per annum.

Also to the lease executed to A. C. Dowsett, dated June 28, 1902, in district Wailau, Molokai, which includes 2,000 acres, the lease being for the period of twenty-one years at the nominal rental of \$100 per annum.

It will be observed from the last annual report of E. S. Boyd, commissioner of public lands, of date July 26, 1902 (see Appendix), that while during the fiscal year ending June 30, 1902, 53,889.80 acres of the public domain of the Territory of Hawaii have been tied up by leases to thirteen different persons—five of them, and perhaps more, corporations—for terms ranging from five to twenty-one years, but 6,599.50 acres have been taken up by the “right-of-purchase-lease” provision in the act of 1895, but 136.29 acres under the “homestead-lease” provision, none under the “cash-freehold” provision, and none under the “special-agreement” provision.

The number of persons who took under the “right-of-purchase-lease” provision was 97, and the number who took under the “homestead-lease” provision, 33; and as the aggregate number of acres taken up by these 33 persons under the “homestead-lease” provision was but 136.29 acres, the average to each person is but 4.13 acres.

The commissioner, in his report, after citing the table, *supra*, showing the above facts, remarks as follows:

The above table shows an increase in land transactions from that of the previous year's report, which also goes to show that small holdings are in demand * * * and it is a source of gratification for me to mention that the enthusiasm shown by applicants, Hawaiians as well as whites, has been sincere.

If it is true, as stated by the commissioner, that “small holdings” were in demand, it is not made apparent by the facts above cited that this demand was met to any very enthusiastic or great extent, as only 136.29 acres were taken up under the “homestead-lease” provision, only 6,599.90 under the “right-of-purchase-lease” provision in the entire year ending June 30, 1902, while in that same period 53,889.80 acres are leased to thirteen different persons and corporations; 26,000 acres of this amount for a term of twenty-one years, 22,800 acres for ten years, and the balance of 5,089.80 for five years. (See Commissioner's Report. Appendix.)

In contrast with this wholesale leasing of immense tracts of land at merely nominal annual rentals, the records show that lands sold to settlers under other provisions of the land act of 1895 are rated and sold at enormously and unreasonably high prices.

Nicholas Russell, one of the Territorial senators of Hawaii, in his testimony before your committee at Mountain View, Hawaii, said:

In regard to government land given to settlers it is not cheap. In the district where I live lands whose clearing requires \$100 an acre are sold at the rate of \$6 to \$12 an acre, instead of \$1.25 an acre as in the States. On this land the settler has to pay 8 per cent annual interest from the first day until the purchase is effected.

The law under purchase-lease contracts demands besides that the settler, whether it is necessary or not, has to maintain a residence on the premises from the end of the first to the end of the third years. It also demands that 25 per cent of the area should be planted, no matter whether any crops can or can not be grown or sold

[illegible]

1. Dr. A. H. Loochenson, a prominent and influential citizen of H. I., Hawaii, is a prominent, under class presence in your community, after studying the present land system in Hawaii and its administration, under which large tracts of land are placed in the hands of and under the control of men and corporations who are not interested in the people and under which the honest, home-owning, law-abiding citizen pays

Illustrative of the hard term imposed on Hawaiian settlers who have taken lands under the different provisions of the Hawaiian land laws your committee asks attention to the following statement submitted to your committee by a number of settlers at Mountain View, Island of Hawaii. Interest at 8 per cent. it will be observed, is charged against settlers on all payments in arrears while lands titled as "new lands" located at an elevation of from 2,000 to 2,500 feet above sea level, and which cost from \$100 to \$150 an acre to clear, are sold to these settlers at from \$4 to \$12 per acre.

Approved: _____

[illegible]

schools and few roads. The soil is poor and covered with a heavy growth of worthless timber at elevations from 1,500 to 3,000 feet.

Name.	No. of lot.	Number of acres.	Price per acre.	Rate.
				<i>Per cent.</i>
Michael Kuras.....	49	50	\$10.00	8
Roman Durbanick.....	96	50	6.00	8
Ossip Prusinowski.....	96	50	6.00	8
Andrew M. Peterman.....	282	50	8.00	8
Joseph Bencharsky.....	95	50	6.00	8
Lizak Wawzenec.....	138	82.89	6.00	8
Theodore Wierzbicki.....	133	50	6.00	8
Johon Klaczek.....	132	50	5.00	8
John Sliwa.....	139	77.83	6.00	8
Andrew Bunkowski.....	134	50	6.00	8
Jose Careiro.....	41	49.50	8.00	8
Andrew Neilson.....	38	50	9.00	8
Stanislaus (his x mark) Kowchau.....	94	50	6.00	8
Michal Pszyk (see special agreement).....	46	48.62	12.00	6

Name of entryman in New Olaa tract, public-land district of Puna, island of Hawaii.	Married or single.	My family consists of—		Citizenship.	Number of entry.	Number of lot.	Number of acres.	Price per acre.	Rate of interest to be paid semiannually in advance.
		Wife.	Children.						<i>Pr. ct.</i>
Theodor Chornejé.....	Married	Wife..	7	Austria, first papers taken.	241	97	50	\$6.00	8
Nicolas Golovaty.....	do	do	3	do	239	96-99	100	6.00	8
Jakub Mavkiewitch.....	do	do	2	do	211	48	49.08	12.00	6
Ludwik Mavkiewitch.....	do	do	2	do	257	285	50	8.00	6
Jan Bencharsky.....	do	do	4	Austria, first papers taken.	244	186	49.08	12.00	6
Angy Verbitsky.....	do	do	1	Austria, first papers taken.	210	47	49.54	12.00	6
Michal Jalkinsky.....	do	do	1	Austria, first papers.	255	45	50	12.00	6
Michal Kuras.....	do	do	1	do	256	49	50	10.00	8
Roman Durbanick.....	do	do	1	do	236	96	50	6.00	8
Ozzip Prusinowski.....	Single	do	do	do	248	50	52.35	10.00	8
Andrew M. Peterson.....	Married	Wife..	4	Minnesota, native born.	282	50	8.00	8	8
Joseph Bencharsky.....	do	do	do	Austria, first papers.	235	95	50	6.00	8
Lizak Wawzenec.....	do	do	do	do	245	138	82.89	6.00	8
Theodor Wierzbicki.....	do	do	1	do	234	133	50	6.00	8
John Klaczek.....	do	do	4	do	237	132	50	5.00	8
John Sliwa.....	Single	do	do	do	238	139	77.83	6.00	8
Andrew Bankowski.....	do	do	do	do	134	50	6.00	8	8
Andrew Nielson.....	Married	Wife..	4	Norway, first papers taken.	246	38	50	9.00	8
Jose Careiro.....	do	do	5	Portugal, first papers.	41	49.50	8.00	8	8
J. R. Iduza.....	do	do	6	do	249	23	49.14	22.38+	6
Peter Markiewitch.....	do	do	2	Austria, first papers.	187	49.54	10.00	6	6
Stanislaus Kowchau (his x mark).....	do	do	2	do	242	94	50	6.00	8
Michal Pszyk.....	do	do	do	do	46	48.62	12.00	6	6

NOTE.—See maps in Governor's Report Territory of Hawaii, 1901, page 90, showing public lands.

Name of entryman in New Olaa tract, public-land dis- trict of Puna, is- land of Hawaii.	Date of entry.	Date of com- mencement of residence.	Law under which en- try was made, or kind of entry.	Personal property.				
				Horses.	Horned cattle.	Hogs.	Chickens.	All other domes- tic animals.
Theodor Chornejé...	Aug. 19, 1901	July 29, 1902	Right-of-purchase lease.	No.	No.	No.	20	No.
Nicolas Golovaty....	do	July 5, 1901	do.	No.	1	No.	100	(a)
Jakub Mavkiewitch.	Sept. 20, 1900	Feb. —, 1901	Special agreement....	1	No.	4	30	No.
Ludwik Mavkiewitch.	do	do	do.	No.	No.	No.	22	No.
Jan Bencharsky.....	do	Oct. —, 1900	do.	1	No.	No.	50	No.
Angy Verbitsky.....	do	July —, 1901	do.	No.	3	1	30	No.
Michal Jalkinsky.....	do	Oct. —, 1900	do.	2	No.	No.	50	No.
Michel Kuras.....	Nov. 14, 1901	Oct. —, 1901	Right-of-purchase lease.	No.	No.	No.	20	No.
Roman Durbaniaak...	Aug. 19, 1901	Mar. —, 1902	Right of purchase.....	No.	No.	No.	5	No.
Ozzip Prusinowski....	Sept. 12, 1901	Aug. —, 1901	do.	No.	No.	No.	No.	No.
Andrew M. Peterson....	May 8, 1902	Oct. —, 1902	do.	No.	No.	No.	25	No.
Joseph Bencharsky....	Aug. 19, 1901	Mar. 1, 1902	do.	No.	No.	No.	10	No.
Lizak Wawzeniec.....	Sept. 6, 1901	Mar. —, 1902	do.	No.	No.	No.	7	No.
Theodor Wierzbicki....	Aug. 19, 1901	Jan. —, 1902	do.	No.	No.	No.	30	No.
John Klazek.....	do	Oct. —, 1901	do.	1	No.	No.	50	No.
John Liliwa.....	do	Sept. 1, 1902	do.	No.	No.	No.	No.	No.
Andrew Bankowski.....	do	Sept. —, 1902	do.	No.	No.	No.	No.	No.
Andrew Nielson.....	Sept. 9, 1901	Jan. 16, 1902	Right-of-purchase lease.	1	No.	No.	No.	No.
Jose Careiro.....	Under assign- ment.	Mar. —, 1901	Right of purchase.....	1	No.	1	No.	No.
J. R. Iduza.....	Sept. 20, 1900	Oct. 8, 1901	Special agreement.....	1	1	2	40	No.
Peter Markiewitch.....	do	Oct. —, 1901	do.	No.	No.	No.	16	No.
Stanislaus Kowchau (his x mark).	Aug. 19, 1901	May —, 1902	Right of purchase.....	No.	1	No.	12	No.
Michal Pzyk.....	Sept. 20, 1900	Oct. —, 1901	Special agreement.....	No.	No.	No.	20	No.

Name of entryman in New Olaa tract, public-land dis- trict of Puna, is- land of Hawaii.	Value of farm imple- ments and tools.	Number of acres cleared.	Cost of clearing per acre (estimated).	Number of miles to nearest school- house at Mountain View.	Quality of soil.	Estimated elevation above sea level.	Remarks.
Theodor Chornejé...	\$5.00	1	\$100.00	8	Poor.....	2,500	Does not conflict with set- tlers prior to Apr. 30, 1900.
Nicolas Golovaty....	100.00	4	150.00	8	do	2,500	Do.
Jakub Mavkiewitch.	20.00	4	100.00	9	do	2,500	Do.
Ludwik Mavkiewitch.	20.00	6	125.00	9	do	2,200	Do.
Jan Bencharsky.....	10.00	3	130.00	9	do	2,500	Do.
Angy Verbitsky.....	15.00	4	125.00	9	do	2,500	Do.
Michal Jalkinsky.....	15.00	3	150.00	9	do	2,500	Do.
Michal Kuras.....	5.00	1	150.00	9	do	2,500	Do.
Roman Durbaniaak...	5.00	1	130.00	7	do	2,500	Do.
Ozzip Prusinowski....	10.00	1	100.00	9	do	2,500	Do.
Andrew M. Peterson....	10.00	2	100.00	7	do	2,300	Do.
Joseph Bencharsky....	10.00	1	100.00	8	do	2,500	Do.
Lizak Wawzeniec.....	10.00	2	100.00	8	do	2,600	Do.
Theodor Wierzbicki....	5.00	2	150.00	8	do	2,500	Do.
John Klazek.....	15.00	4	150.00	8	do	2,500	Do.
John Liliwa.....	10.00	2	150.00	8	do	2,600	Do.
Andrew Bankowski.....	6.50	1	125.00	8	Very poor..	2,500	Do.
Andrew Nielson.....	20.00	1	140.00	8	Rocky and poor.	2,450	Do.
Jose Careiro.....	6.00	1	150.00	7	do	2,400	Do.
J. R. Iduza.....	60.00	3	125.00	6	Poor.....	2,100	Do.
Peter Markiewitch.....	10.00	2	125.00	9	do	2,500	Do.
Stanislaus Kowchau (his x mark).	15.00	1	125.00	8	do	2,500	Do.
Michal Pzyk.....	10.00	2	125.00	9	Very heavy timber, poor soil.	2,500	Do.

a Three goats.

b Building house.

Your committee was presented with petitions containing the signatures of 1,049 persons, all claiming to be citizens and voters in Hawaii, some from each electoral district and precinct in the Territory, in which, among other things, they said:

Your petitioners, native Hawaiians and citizens of the United States, humbly pray that, by the enactment of such laws as may be necessary therefor, the public lands of this Territory, or so much thereof as to you may seem meet and proper, may be set aside and made available for homesteads, in tracts of 40 acres each of the better lands and 80 acres of the inferior.

Your petitioners respectfully submit that in their desire to demonstrate their title to good citizenship they feel it to be but just that they should receive the same encouragement of opportunity as is given to the citizens of the other Territories, where neither the same conditions or prehistory exist as in Hawaii.

And your petitioners will ever pray.

The following extract is from a memorial presented to your committee by the American Settlers' Association (for full memorial see Appendix):

The land law for the disposal of the public lands in the Hawaiian Islands, the property of the United States, remains much the same as it existed under the Republic of Hawaii, and so thoroughly is it repudiated by the people in the islands that the Republican party, in convention assembled, at Honolulu, May 30, 1900 (which was the only representative body of men that assembled in the Hawaiian Islands during the past five years, if not more, the legislature not excepted), adopted the following plank in its platform:

"We declare ourselves in favor of the extension of the homestead principle and the enactment of such laws as will, with the least difficulty and expense, provide homes for the many."

This alone should be enough to convince any reasonable man that a change must be made. It would have been useless for the Republicans to put a ticket in the field without such a guaranty in their platform.

A uniform homestead law for Hawaii is necessary and without delay. We therefore ask Congress, at its second session, to reconsider section 73 of the act approved April 30 and repeal the same, enacting in its stead a homestead law that will give an honest white man a chance to live in Hawaii; a law that will tend toward the development of the country; a law that will not turn back from our shores the practical American farmer, which has constantly been the result in the past.

Respectfully,

AMERICAN SETTLERS' ASSOCIATION.

PRESIDENT ROOSEVELT'S AMERICAN POLICY.

President Roosevelt, in his message to the Fifty-seventh Congress concerning Hawaii, announced the true American policy. He said:

In Hawaii our aim must be to develop the Territory on the traditional American lines. We do not wish a region of large estates tilled by cheap labor; we wish a healthy American community of men who themselves till the farms they own. All our legislation for the islands should be shaped with this end in view; the well-being of the average home maker must afford the true test of the healthy development of the islands. The land policy should as nearly as possible be modeled on our homestead system.

Ke noi haahaa aku nei ke oukou poe noi, he poe Hawaii maoli a poe kupa hoi o Amerika Huipua, mamuli o ka hooholoia ana ona mau Kanawai Kupononoka Mahelehele ana i na Aina a ka Lehulehu iloka o keia Teritori, e like me ke kupono i ko oukou manao, no ka hookaawaleia ana i mau Home-Hookuonoono, na na Apana o Kanaha Eka ka nui o na Aina maikai, a i Kanawalu Eka o na Aina Hapa-Maikai.

Ke waiho haahaa aku nei ko oukou poe noi, oiai lakou e iini ana e hoike aku i ko lakou kuleana maoli, ma ke ano he poe Makaainana Hoopono, ua ike lakou he mea ku i ke Kaulike e loaa mai ia lakou na hoohoihoi kupono ana e like me ia i haawii aku ai i na Teritori e ae, na wahi hoi i ike ole ai na kulana like o ka nohona, a pili Moolelo no hoi, e like la me Hawaii nei.

A e noi mau aku no ko oukou poe noi.

Petitions containing the signatures of 843 persons, all claiming to be citizens and voters of the Territory, were presented to your committee, earnestly protesting against what they recite they believe to be unwarranted and unauthorized taking of public lands of the government and applying them to purposes of private corporations, and praying Congress to inquire into the taking of private lands for the purpose of aiding the Honolulu Rapid Transit and Land Company, giving the government land in exchange therefor by the Territorial officers without recompense. (See appendix.)

LANDS REMAINING UNDISPOSED OF AND THEIR CHARACTER.

The public lands remaining undisposed of three years ago were classed by Land Agent Brown as follows:

	Acres.
Valuable building lots	145
Cane lands	25, 626
Rice lands	977
Coffee lands	26, 825
Grazing lands	448, 200
High forest lands	681, 282
Rugged, inaccessible mountain land	227, 000
Barren (of nominal value only)	310, 000
Total	1, 720, 055

Mr. Brown adds to this classification the following note:

The above classification is of necessity somewhat arbitrary. As stated in my report of 1894, "the lack of positive knowledge of quality and adaptability of the soil in untried sections, and the imperceptible gradation by which the best land merges into the indifferent, and the indifferent into that of nominal value only, makes a report of this nature to a considerable extent a matter of personal opinion rather than of scientific certainty." It is possible that much classed above as "grazing land" and "high forest land" will be found later to have good agricultural possibilities, these latter being now practically undeveloped. (See appendix.)

IS THE CONSTITUTIONAL POWER OF THE LOCAL GOVERNMENT TO DISPOSE OF THE PUBLIC LANDS IN HAWAII FREE FROM DOUBT?

Your committee, referring again to its suggestions as to the doubtful power on part of local officers to dispose of the public domain in Hawaii, is not unaware that the attorney-general for the Department of the Interior has heretofore rendered an opinion which has been approved by the Secretary of the Interior, which opinion follows, in which it is held that since the enactment of the organic act organizing Hawaii as a Territory the local officers of that government have the power to control and dispose of, lease, and sell the public lands of the United States lying in that Territory. Your committee is disposed to agree that the legislation is sufficient to confer such power, providing always that this constitutional power of Congress to dispose of the public domain can be rightfully delegated to a subordinate officer of a local government in a Territory.

This question the assistant attorney-general did not discuss. He doubtless assumed that the power to delegate this important function upon a minor officer of the local Territory existed, and, that being taken for granted, that the legislation, the seventy-third section of the organic act, was sufficient to clothe the local officer of the Territory with this power of disposition. In any event it seems to your committee that the question is one not by any means free from doubt.

The opinion of the attorney-general is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE ATTORNEY-GENERAL,
Washington, December 4, 1900.

The ATTORNEY-GENERAL.

SIR: Answering your letter of the 3d instant, inclosing a letter of the — ultimo from the United States attorney for the district of Hawaii, together with a brief prepared by him and copies of correspondence, all relative to the authority of the public officers of the Territory of Hawaii to sell, lease, or otherwise dispose of public lands in the Hawaiian Islands, I have read the inclosures named, but I do not agree with the United States attorney in his conclusion that the public officers of the Territory of Hawaii are not authorized to sell, lease, or otherwise dispose of public lands in the Hawaiian Islands. While the grant of authority could have been more plainly stated, it seems to me that the question is free from difficulty, and that, subject to certain specified changes and amendments, the act of April 30, 1900 (31 Stat., 141), continues in force "the laws of Hawaii relating to public lands, and thereby provides a system whereby the public lands in those islands may be disposed of until Congress shall otherwise provide." These public lands are not granted to the Territory, but Congress in the exercise of its power and discretion has made the Hawaiian officers and Hawaiian laws, subject to the changes and amendments specified, its instruments for the time being for the disposal of these lands.

In your letter to me it is said "he (United States attorney) seems to have come to a conclusion opposed to that in your report of July 10, 1900, to the Secretary of the Interior."

There was no report, letter, or opinion from me upon this subject at or about the time named, but I find a letter from Acting Secretary Ryan to the governor of Hawaii, dated July 27 last, and an opinion from myself to the Secretary of the Interior, dated October 16 last, both of which may be said to be opposed to the general views expressed by the United States attorney for Hawaii.

If this communication does not answer the purpose intended to be effected by your letter to me, I will be glad to await your further direction in the premises.

Herewith are the papers accompanying your letter.

. Very respectfully,

WILLIS VAN DEVANTER,
Assistant Attorney-General.

EDWARD S. BOYD,
Secretary of the Commission of Public Lands.

From this brief review of the public-land system in vogue in the island of Hawaii it will be seen that the policy pursued there is, with a view of utilizing the public domain solely as a source of revenue to the government, in direct antagonism to the American policy of utilizing the public domain in settlement by homeseekers. Long leases of immense areas at low rentals, and for terms ranging from five to twenty-one years, is the Hawaiian policy, with the power vested in the local authority, the local commissioner of public lands, to determine as to what particular area—agricultural, grazing, sugar, rice, or taro—any specified area of land belongs.

Under the organic act leases of agricultural lands for a longer term than five years is prohibited, and yet your committee is satisfied that within the past year large areas of agricultural lands have been included with other lands that are not agricultural and leased for terms of twenty-one years.

THE EXPENSES OF THE LAND DEPARTMENT IN HAWAII ARE ENORMOUS AND OUT OF ALL REASONABLE PROPORTION TO THE AMOUNT OF BUSINESS TRANSACTED.

The total receipts of the public land office from all sources during the fiscal year ending June 30, 1902, are as follows, as appears from the last report of Hon. E. S. Boyd, commissioner of public lands.

LAND REVENUE.

Rents:

General leases	\$95,577.93
Right-of-purchase leases	5,266.20
Olaa leases	193.23
Puukapu leases	21.00
Miscellaneous	1,233.66

Interest:

Homestead	355.34
Special agreements	1,087.63
Olaa agreements	61.00
Fees	65.50

\$103,861.49

LAND SALES.

Right-of-purchase leases	\$9,518.07
Special agreements	1,927.34
Homesteads	1,288.88
Olaa lots	12.40
Cash sales	315.00

13,061.69

Total receipts 116,923.18

By reference to the last biennial report of the land commissioner, supra, it will be seen that the total receipts by the office of public lands in Hawaii for the fiscal year ending June 30, 1902, was \$116,929.18, while the total expenditures for the same period were \$15,950.70, of which \$3,360.10 was for incidentals. The total appropriation for incidentals for the two fiscal years was \$5,250, the one-half of which is \$2,625. The office expended, however, for the first of these two years \$3,360.10, or \$735 more than the appropriation for that year, and at the same rate of expenditure for the fiscal year ending June 30, 1903, will leave a deficit of \$1,470 on account of incidentals alone.

The total appropriations for the two years ending June 30, 1903, were \$38,710.

The following is a statement of the expenditures in connection with the land department in Hawaii for the fiscal year ending June 30, 1902, and for what services explained:

Statement of expenditures for the year ending June 30, 1902.

Item.	Appropriation.	Drawn.	Total drawn.	Balance.
Salary of commissioner	\$7,200.00	\$3,600.00	\$3,600.00	\$3,600.00
Salary of secretary and subagent fifth land district	4,200.00	2,100.00	2,100.00	2,100.00
Salary of clerk and patent clerk	2,400.00	1,200.00	1,200.00	1,200.00
Salary of messenger for registry of conveyance and land office	1,800.00	900.00	900.00	900.00
Pay of subagent first land district	2,400.00	1,000.00	1,000.00	1,400.00
Pay of clerk and ranger first land district	1,200.00	600.00	600.00	600.00
Pay of subagent second land district	1,200.00	600.00	600.00	600.00
Pay of subagent third land district	960.00	480.00	480.00	480.00
Pay of subagent fourth land district	1,200.00	600.00	600.00	600.00
Pay of subagent sixth land district	720.00	.....	.....	720.00
Pay of ranger second land district	720.00	360.00	360.00	360.00
Pay of ranger third land district	720.00	360.00	360.00	360.00
Pay of ranger fourth land district	720.00	360.00	360.00	360.00
Pay of ranger fifth land district	720.00	360.00	360.00	360.00
Incidentals (including land-patent books, etc.)	5,250.00	.....	.....	.....
Traveling expenses .....	.....	876.70	.....	.....
Printing .....	.....	145.00	.....	.....
Advertising .....	.....	1,224.52	.....	.....
Office expenses .....	.....	1,113.88	3,360.10	1,899.90
Preliminary roads and trails	7,000.00	.....	.....	7,000.00
Expenses filing boundary certificates	300.00	70.60	70.60	229.40
Total	38,710.00	15,950.70	15,950.70	22,759.30

This does not include the expenses of the surveyor's department, which for the past fiscal year was \$33,500.14. See following table from Governor Dole's recent report:

Statement of expenditures and receipts of the survey department.

EXPENDITURES.

	Appropriation.	Drawn.	Balance.
Salary of surveyor, meteorologist, and assistants.....	\$23,000.00	\$11,500.00	\$11,500.00
Expenses of survey and office work.....	48,000.00	21,096.98	26,903.02
Publishing maps.....	1,600.00	688.96	911.04
Meteorology.....	750.00	214.50	535.50
Total.....	73,350.00	33,500.44	39,849.56

RECEIPTS.

Published maps.....	\$77.50
Tracings.....	57.50
Blue prints.....	53.50
Rating chronometers.....	17.50
Data furnished.....	32.00
Total.....	238.00

Here is a gross expenditure in the surveyor-general's office alone of \$33,500.44 in a single year, with receipts in that office amounting to the mere bagatelle of \$238, leaving a deficit of \$33,262.44 for the year, \$11,500 of which was for "salaries of the surveyor-general, meteorologists, and assistants." Of the amount, \$15,900.70 expended, by the commissioner of public lands, all but \$3,308.10 (except \$70, which went to expense of filling in boundary certificate) was expended in salaries, while the \$3,308.10 went for "incidentals."

This shows a total expenditure in the office of the commissioner of public lands and the Territorial surveyor of public lands in a single year of \$49,213.14, the total receipts from all sources, from land sales and interest for the year being \$116,923.18. Adding to this the receipts in the surveyor-general's office of \$238, we have a total of receipt for the year of \$117,161.18, against a total expenditure for the same year of \$49,213.14, or a fraction over 42 per cent of the entire receipts from all sources.

A PROVISION WHICH PASSED THE SENATE FEBRUARY 27, 1900, BUT WAS REJECTED BY THE HOUSE.

In the organic act as passed by the Senate February 27, 1900, there was the following provision, which was rejected by the House and failed in conference:

That the sum of \$15,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available, to enable the Secretary of the Interior to examine the laws of Hawaii relating to public lands, proceedings thereunder, and all matters relating to public lands, including the selling, granting, leasing, or other disposition of the public domain, and agreements or franchises concerning the same, granted by the Hawaiian government prior to the 11th day of September, 1899, and subsequent to the 12th day of August, 1898; and to enable the Secretary of Agriculture to examine into all matters concerning agriculture and forestry and public roads in said Territory, which duties shall be performed with all convenient speed; and each of said officers shall report to the President of the United States, with recommendations upon the matters concerning which he is herein charged. The appropriation herein provided for shall be divided equally between the Department of Agriculture and the Department of the Interior, as the necessities of the investigations of each shall demand.

This provision should be incorporated in an appropriation act at the present session of Congress.

COMMITTEE RECOMMENDATIONS.

Your committee is clearly of the opinion that the wholesale leasing of lands not classed as agricultural for long terms of from ten to twenty one years at low rentals, which seems to have been carried to an unreasonable extent in the past year, should be immediately suspended by action upon the part of Congress, and, further, that leases of agricultural lands for any term should also be suspended, and all such lands be held for homesteaders on reasonable terms, corresponding in principle to homestead rights on the mainland. Your committee therefore recommend as follows:

First. That Congress take immediate action suspending the power upon the part of the local Territorial government of Hawaii to execute for the present any further leases of either agricultural or nonagricultural lands in the island of Hawaii.

Second. That the control, management, and disposition of the public lands in Hawaii be transferred to the Department of the Interior of the United States, the same to be under the control of the Secretary of the Interior and the Commissioner of the General Land Office to the same extent that they exercise jurisdiction and control of the public domain on the mainland.

Third. That there be created by Congress an office to be designated as the office of the surveyor-general for the Territory of Hawaii; that the surveyor-general be appointed by the President of the United States by and with the advice and consent of the Senate, such officer to have like jurisdiction and power as has the surveyor-general in the Territory of New Mexico.

Fourth. That two land districts be created by Congress in the Territory of Hawaii, and two land offices be established therein with a register and receiver for each, such registers and receivers to be appointed by the President by and with the advice and consent of the Senate. one of the said districts to include the whole of the island of Hawaii alone, with the land office at Hilo, the other district to include all the other islands of the Territory, with the land office at Honolulu.

Fifth. That the following provision be incorporated in some appropriate appropriation act at the present session of Congress:

That the sum of fifteen thousand dollars, or as much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available, to enable the Secretary of the Interior to examine the laws of the Territory of Hawaii relating to public lands, proceedings thereunder, and all matters relating to public lands, including the selling, granting, leasing, or other disposition of the public domain, and agreements or franchises concerning the same, granted or issued by the Hawaiian government, and to enable the Secretary of Agriculture to examine into all matters concerning agriculture and forestry and public roads of said Territory, which duty shall be performed with all convenient speed; and each of said officers shall report to the President of the United States, with recommendations upon the matters concerning which he is herein charged. The appropriation herein provided shall be divided equally between the Department of Agriculture and the Department of the Interior, as the necessities of the investigations of each shall demand.

JOHN H. MITCHELL.

JOSEPH R. BURTON.

ADDISON G. FOSTER.

JOSEPH C. S. BLACKBURN.

AIDS TO COMMERCE, IMPROVEMENT OF HARBORS, LIGHT- HOUSES, BUOYS, AND PUBLIC BUILDINGS.

The coasts and harbors of Hawaii are woefully deficient in light-houses. There is only one first-class light-house in the Territory. This is on Diamond Head, overlooking the harbor and city of Honolulu. This light cost about \$15,000; the lens is of the first order. There are a few other inferior lights established at different points, but they are wholly inefficient to meet the requirements and just demands of the rapidly increasing commerce of the Hawaiian waters.

These lights have all been erected either by the monarchy or the late republic, and all are at present maintained, kept in repair, and operated at the expense of the Territorial government. The total cost to the Territory for maintaining and operating all the light-houses of the Territory for the past fiscal year ending June 30, 1902, was \$6,727. Of this amount \$1,054.88 were for repairs.

New lights are greatly needed as follows: The great bulk of the Pacific coast commerce passes through the channel between the islands of Oahu and Molokai. Many hundred vessels now pass annually through this channel, and the number is rapidly increasing, and there are, with the single exception of the light-house at Diamond Head, no light-houses whatever on the exposed points of either of these islands. There is a small light on the farther point of the island of Molokai, but it is not visible more than about 5 miles at sea.

New lights are required as follows: One of the first class upon the point of Mokapu, island of Oahu; estimated cost, \$10,000; this to carry a lens of the third order, showing a fixed white light with red sectors, covering a safe distance from shore.

Another new light is required at Kaluhui, island of Maui; estimated cost, \$20,000. There is at present no light of any character on this coast of the island of Maui. There is a dangerous coral reef close to the entrance of Kaluhui Harbor, where many vessels land, and the approach to the harbor at night is unsafe and dangerous. The only aid to commerce at this harbor at present is a single buoy, maintained, as we were advised, at the expense of the steamship companies. The plan for this new light house is to construct it with concrete, with a stone tower, with lens that would make the light visible 19 miles distant.

A third light is needed on the coast of Puua, island of Hawaii; estimated cost, \$10,000. The commerce entering Hilo Bay requires a new light on Leleiwi Point, island of Hawaii. For this light a stone tower is suggested, with a fixed white light at an elevation of 70 feet, with a lens of the third or fourth order.

A new light is also required at Kailua, on the island of Hawaii. This is for the benefit more particularly of local commerce; estimated cost, \$5,000. Lights are needed also at Barbeie Point, island of Oahu, and at Keahole, North Kona.

In addition to these there is, in the judgment of your committee, an absolute and pressing necessity for at least two new lights in Honolulu Harbor. The present lights consist of two small structures, one showing a red light on Light-House Island and the other a green light over the custom-house. These are intended to give the range for vessels entering the harbor. These lights are wholly inadequate for the purposes intended, being so low and inefficient that it is difficult to distinguish them from the myriad of fishermen's lights which constantly throng the entrance of that harbor at night. Your committee was detained some three hours from entering this harbor by boat, on the return of the committee from one of the other islands, by reason of the failure of the captain of the vessel to distinguish as to the lights.

The total estimated cost of the construction of the lights mentioned is about \$50,000. Your committee are unable to see why the erection and maintenance of these lights should be a charge upon the treasury of the Territory, but, on the contrary, we believe it is the duty of the General Government to take charge of the construction and maintenance of these lights.

The interests of commerce in the Hawaiian waters require, moreover, in the judgment of your committee, that a revenue cutter be stationed in these waters; also a light-house tender.

Your committee finds that the local government was at an expense of \$1,855.63 for repairs and changes of buoys in the waters of Hawaii for the year ending June 30, 1902.

HARBOR AT HONOLULU.

The local government has, in the fiscal year ending June 30, 1902, expended \$61,058 in dredging in this harbor; the estimate for the ensuing year is \$250,000. The entrance to this harbor consists of an artificial channel cut in coral sand to the depth of 30 feet and 400 feet in width. There are many reasons why this channel should be made deeper and wider. The expense, however, to accomplish this would be considerable. But it should be done and the National Government should do it.

The local importance of Honolulu, with a population of 45,000, its strategic position, its geographical location, its rapidly increasing commerce, domestic and foreign, and the fact that it is the great metropolis of the child of the Republic, all demand just and generous recognition from the Congress of the United States. We recommend an appropriation in aid of the deepening and widening of the channel at the entrance to Honolulu Harbor.

PEARL HARBOR.

Congress is already fully advised as to Pearl Harbor and of the work necessary to be done there. It is not deemed necessary, therefore, upon the part of your committee to say much, if anything, in regard to this. Its great importance, however, as an expansive and magnificent protective inland harbor in connection with future commerce can not be overestimated. Proceedings for the condemnation of lands necessary for the naval station on Pearl Harbor seem to be progressing as rapidly as could be expected. Any system, however, of appropriations for national defense must include suitable means of defense at Pearl Harbor. And the projected improvements at that point—the establishment of a great naval station and Army post, and other instrumentalities of national defense—should receive the cordial encouragement and generous aid of Congress.

HILO HARBOR.

The harbor at Hilo is practically an open roadstead, with ample lepth of water for vessels of the largest draft, but greatly in need of protection from the ocean by the construction of a breakwater along Blondé Reef to Coconut Island. The Republic of Hawaii made surveys and estimates. The total estimate by that Government was \$500,000 for the improvement of Hilo Harbor, this to include the breakwater. Later estimate for breakwater is \$750,000.

The testimony shows that vessels lying at anchor in this harbor are liable at any moment to be caught in a northeast, or more particularly northern tempest, in which case they are compelled to cut loose and go to sea, or be in great danger of being thrown upon the reef, as the harbor is absolutely unprotected. The commerce of this port is rapidly increasing, both domestic and foreign, and in the judgment of your committee this is an improvement worthy of the serious consideration of Congress. There is no bar of any consequence at Hilo, and no necessity for dredging, except perhaps near the wharf line, there being plenty of water. Your committee recommends that Congress make an appropriation for a survey and estimate of cost for the construction of this proposed breakwater.

MINOR HARBORS AND LANDINGS ON THE COAST OF THE SEVERAL ISLANDS.

In reference to the various small harbors and the manner in which boats are landed at them, it is only necessary to attract the attention of the Senate to the carefully prepared report of the subcommittee of the Hawaiian Commission, prepared by Governor Dole and Representative Hitt, of September 16, 1898, and being reprinted in the appendix hereto. The conditions as to wharves and the manner of landing boats are substantially the same now as at the date of that report. Many of these minor harbors deserve the consideration of Congress. Those located on the different islands on the principal line of commerce between Honolulu and Hilo should be surveyed and estimates procured with a view to proper improvements.

Your committee recommends that the General Government enact such legislation and make such appropriation as may be necessary to meet the demands of commerce generally in the waters of this Territory.

PUBLIC BUILDING AT HONOLULU.

At least one commodious public building should be authorized and constructed at Honolulu. The business of post-office, custom-house, and Federal court has outgrown present accommodations, and your committee, in view of the fact that it is not probable Congress could be induced to enter upon the construction of two buildings in Honolulu at the same time, recommends an appropriation by Congress for the construction of a building sufficient to accommodate the Federal court, post-office, custom-house, and the offices of United States district attorney, United States marine hospital, United States surveyor-general, register and receiver of land office, United States internal revenue, and other Federal officers. Your committee, however, is advised that Mr. Eustis, a special agent of the Treasury Department, is now in Hawaii making a special investigation of this particular subject. His report may throw more light on the necessities of public buildings for Honolulu.

FEDERAL BUILDING AT HILO, HAWAII.

One good Federal building for use of the Federal court, custom-house, post office, and other Federal offices is a pressing necessity at Hilo, island of Hawaii. Government ground for a site for such building is available in Hilo, and for this the Government will not be put to any expense. It is believed a building costing not to exceed \$100,000 will be sufficient to meet the demands, and your committee earnestly recommends an early appropriation by Congress for this purpose.

The city of Hilo is one of considerable commercial importance, and its commerce, both internal and foreign, is rapidly increasing. With the exception of Pearl Harbor, the bay of Hilo presents the most commodious natural harbor in the Hawaiian Islands, having an area of more than 1,500 acres and an available wharfage frontage of about 7,000 feet, or a distance of nearly $1\frac{1}{2}$ miles.

Hilo is the commercial metropolis of Hawaii, very much the largest, and it is believed the richest of the whole group of the islands. It is situated on Hilo Bay on the windward side of the island. This island of Hawaii has a greater area than all the seven other inhabited islands put together by about 1,680 square miles. It has an area of 4,200 square miles, as against the combined area of all the other islands of 2,530 square miles, and includes over 2,000,000 acres, the areas of the other inhabited islands being as follows:

	Square miles.
Maui.....	760
Oahu.....	600
Kauai.....	590
Molokai.....	270
Lanai.....	150
Niau.....	97
Kahoolawe.....	63

Not only so, the island of Hawaii is rapidly coming to the front in the matter of production. Of the 360,038 tons of sugar produced in the Territory the past year, the island of Hawaii produced 134,618 tons, or 38 per cent of the total output. Nearly the whole of the sugar produced in the island passes to market through the port of Hilo.

The money-order business of the Hilo post-office amounted last year to \$288,116.13 in orders issued and \$45,114.65 in moneys paid out. Hilo is in direct communication by regular steam vessels not only with Honolulu, but with the mainland at San Francisco, and is the distributing point for a large number of mail routes.

For the past year ending June 30, 1902, the total amount of merchandise exported to the United States through the port of Hilo was \$4,032,767.83. The population of the city and district of Hilo is about 14,000. It is the terminal of two railroads penetrating the interior, one of which is in active operation a distance of 42 miles through a country being rapidly developed into immense sugar plantations, and the other of 120 miles, to run in the opposite direction, is a projected enterprise having good prospects for early completion.

The assessed value of the real and personal property of the island of Hawaii for 1897 amounted to \$13,504,831, and for the year 1901, five years later, to \$25,377,151, or nearly double, while that of the district of Hilo amounted in 1897 to \$5,460,631, and in 1901 to \$10,281,480, or an increase in five years of \$4,420,849.

The present accommodations for the post-office at Hilo are wholly inadequate and insufficient; it is neither brick nor fireproof.

In view, therefore, of all these conditions, your committee earnestly recommends the favorable consideration of Congress, in connection with the construction of a breakwater, the establishment of necessary lights, and the appropriation of at least \$100,000 for the construction of a public building at Hilo necessary for the accommodation of the Federal court, custom-house, post-office, United States appraiser's office, United States surveyor of the port, United States Marine Hospital Service, immigration bureau, United States internal-revenue office, United States marshal, United States attorney, United States commissioner, and United States land office.

JOHN H. MITCHELL.

JOSEPH R. BURTON.

ADDISON G. FOSTER.

JOSEPH C. S. BLACKBURN.

Subcommittee.

At that date, December 31, 1897, there were 97 nonleprous children and 98 kokuas (or helpers) nonleprous, as follows:

Native volunteer helpers.....	78
Catholic priests.....	2
Protestant pastor and wife.....	2
Physician.....	1
Francisca Sisters.....	5
Japanese servants to Sisters.....	2
Catholic Brothers.....	6
Japanese servants to superintendent.....	2
Total.....	98

Since then, according to recent statistics, there has been a slight reduction in the number of lepers in the settlement. The total number of patients at the settlement June 30, 1902, according to recent report of Governor Dole, was 915.

Later statistics, however—up to September 9, 1902—give the number of lepers at the settlement as 858.

Adults:	
Males.....	515
Females.....	334
Children:	
Males.....	5
Females.....	4
Total.....	858

In addition to the above there were at the settlement September 9, 1902, kokuas (helpers), as follows:

Males.....	32
Females.....	26
Total.....	58

Nonleprous children:	
Males.....	55
Females.....	20
Total.....	75

Other well persons:	
Males.....	12
Females.....	4
Total.....	16

Total number of persons, patients, helpers, physicians, and servants at the island September 9, 1902, 1,007.

During the years 1901 and 1902 the following number of children were sent from this leper settlement to Honolulu:

October 3, 1901.....	4
June 6, 1902.....	1
June 9, 1902.....	3
Total.....	8

These were sent to the Kapiolani Home.

The deaths in the settlement for the year ending August 31, 1902, were as follows:

Males.....	88
Females.....	56
Total.....	144

There were births for the year ending August 31, 1902:

Males	7
Females	9
Total	16

Of these there were, legitimate, 8; illegitimate, 8.

THE VITAL QUESTION.

The principal question confronting your committee is as to whether this leper settlement, and the care, management, control, and expense of the same, should be left as now to the control of the Territorial government or should be transferred to the General Government and placed under the control of the Marine Hospital Service. Upon this question there is wide diversity of opinion among the leading people of Hawaii, and, strange to say, notwithstanding the large expense charged up each year to the Territorial government in connection with the care of these unfortunate people, the principal governmental leaders at present in the Territory, including the governor, the secretary of state, the board of health, the attorney-general, in fact the heads of every one of the different departments, are insistent upon retaining the management and control of the lepers and the leper settlement by the Territorial government.

Your committee has been somewhat surprised to find that under existing management of the leper settlement, indiscriminate legitimate and illegitimate cohabitation is permitted in the settlement. Marriages are suffered to be celebrated between leprose men and women, regardless of their physical condition. Children are born in the settlement of leprose unions, and as a result of concubinage; and, strange as it may appear, the leading officials seem to regard all this not only as permissible, but protest vigorously against a system of segregation that would prevent it.

EXTRACT FROM TESTIMONY.

INDISCRIMINATE COHABITATION PERMITTED, CHILDREN BORN, AND MARRIAGE OF LEPEERS ADVISED AND URGED BY THOSE IN CHARGE OF THE LEPER SETTLEMENT.

F. D. McVEIGH, present superintendent of the leper settlement, testified among other things as follows:

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. McVEIGH. F. D. McVeigh; 44 years old; Honolulu; superintendent of the leper settlement.

Senator MITCHELL. How long have you been superintendent of the leper settlement?

Mr. McVEIGH. Almost five months. Since the 1st of May.

Senator MITCHELL. Business here engaged in prior to that?

Mr. McVEIGH. Agent of the board of health.

Senator MITCHELL. How long were you agent of the board of health?

Mr. McVEIGH. Since 1892, with the exception of two years in the marine hospital.

Senator MITCHELL. What were your duties?

Mr. McVEIGH. Sanitary officer in town and at the quarantine station.

Senator MITCHELL. By whom appointed?

Mr. McVEIGH. By the board of health.

Senator MITCHELL. How long have you resided in the Territory?

Mr. McVEIGH. I have been in the Territory twenty-five years next month.

Senator MITCHELL. Where were you born?

Mr. McVEIGH. Born in Canada.

Senator MITCHELL. Been in the service of the board of health, then, how long?

Mr. McVEIGH. Since 1892.

Senator MITCHELL. First as agent?

Mr. McVEIGH. First as agent in charge of the quarantine station and since last May in charge of the leper settlement.

Senator MITCHELL. How many lepers are there in that settlement now?

Mr. McVEIGH. On September 9 there were 858.

Senator MITCHELL. Of the present month?

Mr. McVEIGH. Yes.

Senator MITCHELL. How many of these are men?

Mr. McVEIGH. Five hundred and fifteen males, 334 females. The children under 10 years, 5 males and 4 females. Total, 858.

Senator MITCHELL. Are a great number of the bulk of this population over 21 years of age?

Mr. McVEIGH. Yes, sir.

Senator MITCHELL. State the nationality of these people as near as you can.

Mr. McVEIGH. Well, we have—of course I can't give you the exact figures.

Senator MITCHELL. As near as you can.

Mr. McVEIGH. We have 3 Americans. This is in 1899.

Senator MITCHELL. That is, 3 men or women?

Mr. McVEIGH. Males—men.

Senator MITCHELL. No American females?

Mr. McVEIGH. No, sir. We have 4 Germans.

Senator MITCHELL. Males or females?

Mr. McVEIGH. Four German males and 2 females German and 1 French Canadian. We have 1 American negro as well and 1 Austrian. That completes the foreigners that we have there; that is, the white foreigners—no, we have some Portuguese there as well. We have 1 Portuguese man and 3 Portuguese boys under 21 years old that are now in the Baldwin Home. Then we have 29 Chinese.

Senator MITCHELL. Men or women?

Mr. McVEIGH. Twenty-seven males and 2 females, 2 Chinese females, and 11 Japanese, all males.

Senator MITCHELL. And the balance?

Mr. McVEIGH. The balance all Hawaiians.

Senator MITCHELL. Pretty equally divided, men and women?

Mr. McVEIGH. No; a large majority of males.

Senator MITCHELL. A large majority of males?

Mr. McVEIGH. Males 515, females 334.

Senator MITCHELL. Are the males and females permitted to cohabit there?

Mr. McVEIGH. Yes, sir; outside of the homes.

Senator MITCHELL. Outside of the homes? What do you mean by the homes?

Mr. McVEIGH. The Baldwin Home for males. There are 134 males in the Baldwin Home.

Senator MITCHELL. That is in the settlement there?

Mr. McVEIGH. Kalauwao and Kalaupapa make two villages there.

Senator MITCHELL. Why is this?

Mr. McVEIGH. The original settlement was at Kalauwao. Afterwards, as the settlement increased, it was taken over to Kalaupapa, which is now the principal settlement.

Senator MITCHELL. How many over there?

Mr. McVEIGH. At Kalaupapa?

Senator MITCHELL. Yes.

Mr. McVEIGH. We have in Kalaupapa, there is about—kokuas, everyone else—about 720, and the balance are over on the other side.

Senator MITCHELL. Is cohabitation indiscriminately practiced?

Mr. McVEIGH. No, I don't think so.

Senator MITCHELL. Is there any regulation on the subject? If so, what is it?

Mr. McVEIGH. No regulation that I know of at the present time. There are a great many there who have formed connections that are unable to get a divorce from their husbands or wives, so that they could have new marriages, married again. We should have a divorce law which would permit these people to be allowed to marry again in the settlement.

Senator MITCHELL. Is there any prevention of fornication there?

Mr. McVEIGH. Not that I know of. We have talked lately about this, but nothing has been accomplished as yet.

Senator MITCHELL. How many children have been born there since you went there?

Mr. McVEIGH. Since May?

Senator MITCHELL. Yes.

Mr. McVEIGH. Five children.

Senator MITCHELL. Are they still there?

Mr. McVEIGH. One is there. Three were sent down and one died.

Senator MITCHELL. Three sent where?

Mr. McVEIGH. To the Kapiolani Home.

Senator MITCHELL. How old?

Mr. McVEIGH. One about three weeks old. Another was taken away about a week after the birth. We have one in the settlement yet. That child leaves the settlement this week.

Senator MITCHELL. Are these nationalities kept separate, or do they all mingle together?

Mr. McVEIGH. All mingle together. The cottages are in different portions of the grounds.

Senator MITCHELL. I suppose there are degrees in the way in which these people are affected?

Mr. McVEIGH. Yes, of course. Some are a good deal worse than others.

Senator MITCHELL. Some of them pretty bad?

Mr. McVEIGH. Some are very bad, and some are very little—very light cases.

Senator MITCHELL. In what respect bad?

Mr. McVEIGH. Tubercular cases are the worst.

Senator MITCHELL. Have sores?

Mr. McVEIGH. Sores.

Senator MITCHELL. On their body, generally?

Mr. McVEIGH. On the body, face, and hands, and on the feet, yes.

Senator MITCHELL. Is there any effort to prevent those that are very bad from cohabiting from those not so bad?

Mr. McVEIGH. Not at present.

Senator MITCHELL. Never has been, has there?

Mr. McVEIGH. Not that I know of.

* * * * *

Senator BURTON. What is your salary?

Mr. McVEIGH. Two hundred and twenty-five dollars per month.

Senator MITCHELL. Allowances?

Mr. McVEIGH. Rations.

Senator BURTON. You don't know how many children have been born in that settlement for two years?

Mr. McVEIGH. The last report was in 1899. There was 45 born during the two years.

* * * * *

Senator BURTON. Did you ever know of leprosy to appear in the individual that had been born on the settlement and taken away from there?

Mr. McVEIGH. I think one case I know of.

* * * * *

Senator BURTON. This leper child, how old was she when she developed leprosy?

Mr. McVEIGH. This girl was named Cecilia and was about 13 when she developed leprosy. She showed marks on her back; about four or five years ago.

Senator BURTON. Born at the settlement?

Mr. McVEIGH. Yes, and brought to the Kapiolani Home.

Senator BURTON. Kept there?

Mr. McVEIGH. Kept there and developed leprosy.

Senator BURTON. At 13?

Mr. McVEIGH. At 13 years old.

Senator BURTON. And returned?

Mr. McVEIGH. Returned now to this settlement.

Senator BURTON. There now?

Mr. McVEIGH. There now.

Senator BURTON. Did you ever hear of any other case?

Mr. McVEIGH. No, sir. That is the only case that we have any record of.

Senator BURTON. Well, is there any pains taken to find out the facts—any efforts made to find out the facts as to whether leprosy does develop?

Mr. McVEIGH. Well, we have got those children down to the Kapiolani Home; part of the children.

Senator BURTON. How long since the home has been established?

Mr. W. O. SMITH. About twenty years.

Senator BURTON. Then people 20 years old are in the home yet?

Mr. McVEIGH. We have some there 20 years of age.

Senator BURTON. Has anybody gone to that home and then mixed in the community?

Mr. McVEIGH. One of the girls got married from the home two years ago.

Senator BURTON. Where did she go to?

Mr. McVEIGH. Down in Waianae.

Senator BURTON. Where is Waianae?

Mr. McVEIGH. About 32 miles from town.

Senator FOSTER. On this island?

Mr. McVEIGH. On this island.

Senator MITCHELL. Do you mean to say she married a man living outside?

Mr. McVEIGH. A carpenter by trade; a Hawaiian.

Senator BURTON. Who permitted her to get married?

Mr. McVEIGH. She had an examination. I don't know who gave her away. She was permitted to leave the home by the Sisters. Up to 16 years is as long as we have control of them.

Senator BURTON. Then are they taken away?

Mr. McVEIGH. They can leave the home if they see fit.

Senator BURTON. If they show no signs of leprosy?

Mr. McVEIGH. They must be examined by a physician before being allowed to leave there—a medical board consisting of five physicians.

Senator BURTON. If the board says there is no sign of leprosy they are free to go away?

Mr. McVEIGH. After a bacteriological examination as well, besides the five physicians who constitute the board. This girl that left the home two years ago, she had some trouble with another native on the outside and was reported as a leper. They had her brought in for examination and nothing could be found, no sign of leprosy of any kind. She had some trouble with some one who reported her as a leper.

Senator BURTON. How many people have left that home and gone out to live in the community?

Mr. McVEIGH. I could not tell exactly.

Senator BURTON. They are leaving every year?

Mr. McVEIGH. Some leave.

Senator BURTON. Leaving at the age of 16?

Mr. McVEIGH. Some do not. They stay there and give assistance to the others for board and lodging, to the younger children.

Senator BURTON. Well, can we have any information as to how many have left that home who were born at the leper settlement?

Mr. McVEIGH. I think that can be obtained from the Sisters.

Senator MITCHELL. Does this report say anything?

Mr. McVEIGH. I don't think so.

Senator MITCHELL. Have you any means of knowing how many children are born there—have been born there in the last five years?

Mr. McVEIGH. Yes, sir; at the leper settlement.

Senator MITCHELL. Can you state?

Mr. McVEIGH. No; only for two years. Of the 45 born during the period, 39 had both parents lepers; 2 where the father was a leper and the mother a kokua; 3 where the mother was a leper and the father a kokua, and 1 with both parents clean.

Senator MITCHELL. How many of these 45 children were illegitimate?

Mr. McVEIGH. I could not tell you.

Senator BURTON. Well, from your knowledge of the station, how many would you say were illegitimate—the majority of them?

Mr. McVEIGH. Perhaps about 50 per cent.

Senator BURTON. Don't you think it would be better to separate the males from the females there, so that no cohabitation would be permitted?

Mr. McVEIGH. No; I don't think so; not from a study of the Hawaiian character. I don't think so.

Senator BURTON. Why?

Mr. McVEIGH. Well, practically, I think it is hard enough for them to be segregated without separation of the sexes.

Senator BURTON. Don't you think it is better for 800 or 900 people to forego the elusive pleasures of cohabitation during their natural lives and pass away rather than to endanger the spread of this malady?

Mr. McVEIGH. Possibly so. I think under the condition up there it would be too much of a hardship.

Senator BURTON. You think it would be a very great hardship, then, to prevent cohabitation; that is your idea?

Mr. McVEIGH. Yes, sir.

Senator BURTON. You think that is the chief pleasure of life?

Mr. McVEIGH. No, sir; I do not. I think they are entitled to a little pleasure—entitled to some little pleasure. They are separated and taken from their homes, husbands from wives and wives from husbands, and children from parents. It is very hard.

Senator BURTON. Suppose they were separated only in the nighttime, and in the daytime proper guards.

Mr. McVEIGH. I don't think it is possible to guard the place so that the sexes would be kept totally apart there, even in the daytime.

Senator BURTON. You mean to say that wives and husbands could not be permitted at stated times during the day to come within an inclosure, so that they could have social pleasure and mix in that way without very much trouble?

Mr. McVEIGH. Oh, it could be done, I suppose.

Senator BURTON. Would not be very much trouble?

Mr. McVEIGH. If you could see the situation of the land up there—it would be a lot of work.

Senator BURTON. Suppose we take an inclosure, an acre of ground, in which a wife and husband were permitted to come in and see each other; have social intercourse.

Mr. McVEIGH. That could be managed very easily.

Senator BURTON. That, then, would relieve a great many of the imagined hardships for the balance of the twenty-three hours?

Mr. McVEIGH. Perhaps it would; yes.

Senator BURTON. Then it would stop the breeding of an infected race?

Mr. McVEIGH. I do not know that the race is infected. It has never been proven.

Senator BURTON. No; I don't know whether anything has been proven in medicine.

Mr. McVEIGH. I am not a doctor.

Senator BURTON. You have to do with the doctors a great deal?

Mr. McVEIGH. Yes; more or less.

Senator BURTON. At any rate, it is known that these diseases would spread if these people were permitted to mix and mingle in the community, don't you think so, by inoculation?

Mr. McVEIGH. By inoculation; I think so.

Senator BURTON. If it will spread by inoculation it will certainly spread by breeding. It would not take a doctor to know that.

Mr. McVEIGH. I do not know. I could not give an honest opinion.

Senator MITCHELL. Are marriages permitted there?

Mr. McVEIGH. Yes, sir.

Senator MITCHELL. Between lepers?

Mr. McVEIGH. Between lepers.

Senator MITCHELL. How many marriages have been—how many ceremonies of marriage have been celebrated since you went there?

Mr. McVEIGH. We had four.

Senator MITCHELL. Since you went there?

Mr. McVEIGH. Five months.

Senator MITCHELL. What was the condition of these people?

Mr. McVEIGH. Well, one couple were very mild cases and the other couple were bad. In fact, one was blind; the man was blind, a tubercular case.

Senator MITCHELL. And the one he married?

Mr. McVEIGH. A bad case; practically the same as himself, without the fact that the woman was not blind.

Senator MITCHELL. Both bad cases?

Mr. McVEIGH. They had been cohabiting together for many years, and the husband of the woman died on the outside. They had been cohabiting so long that they thought they would get married after the restriction was removed from the woman, which was very proper.

Senator MITCHELL. How many marriages in the past two years?

Mr. McVEIGH. I don't know; I can't tell.

Senator MITCHELL. Any statistics?

Mr. McVEIGH. Births, marriages, and deaths.

Senator MITCHELL. Who has charge of these statistics?

Mr. McVEIGH. The bookkeeper of the settlement.

Senator MITCHELL. Are they reported?

Mr. McVEIGH. Reported to the board of health.

IMMORALITY SANCTIONED AND DEFENDED.

It was made plain to your committee that immorality in the unrestricted illegitimate association of the leper patients is permitted by those in charge of and having control of the leper settlement. The only attempt seemingly to abate or minimize this evil is by counseling and earnestly urging marriage on the part of lepers, even going so far in this direction as to aid in facilitating divorces where a leprous man or woman has a wife or husband outside of the settlement, so that the husband or wife thus released from the marriage obligation might again be married to a leper and inmate of the leper settlement.

Hon. W. O. Smith, former president of the board of health and late attorney-general of the Territory of Hawaii, and at present a prominent business man and president of the bar association of Honolulu, having been sworn, testified upon the subject as follows:

From the very beginning this matter of the marriage relations at the settlement has been one of the most difficult questions to deal with. Every effort has been made to encourage those who were unmarried to marry rather than live together without marriage. The priests and Protestant clergymen there, sisters, lay brothers, and the officers of the board of health have done all they could for many years. * * * The matter has been discussed a great deal. Efforts were made to assist those where a man or a woman had a husband or wife outside of the settlement to obtain a divorce. * * *

The question has been asked whether they were permitted to live together without being married. I may answer to that, they have been permitted in the sense that they have not been followed up and prosecuted before the law in every case when they were not living together lawfully.

Senator BURTON. They are practically permitted, then, to do as they please, according to the superintendent.

Mr. SMITH. I think that he gave a very wrong impression; he has only been superintendent there a few months.

Senator BURTON. A man could find out in five or six months how the people did?

Mr. SMITH. For twenty-five years I have been there a great many

times, as president of the board of health, and we have looked into the matter with the utmost care.

Senator BURTON. A man who has been there as much as five months should know. Have you been there as much as five months, continuously?

Mr. SMITH. No, I have not; but I have had experience with those residing there continuously. I have frequently discussed the matter with the priests and lay clergymen and those living there.

Senator MITCHELL. Are there any number, any proportion of this community that are compelled by reason of leprosy alone—I do not mean getting sick from other causes—confined to their beds?

Mr. SMITH. Yes; the disease takes different forms. I don't know the technical terms. There is the tubercular form, where tubercles form. Generally the fingers drop off. I have seen a man living with both feet and both hands gone. Some of them are extremely repulsive.

Senator MITCHELL. These have to keep their bed?

Mr. SMITH. Yes, sir.

Senator MITCHELL. About how many?

Mr. SMITH. I can't tell you.

Mr. McVeigh, present superintendent of the leper settlement at this point, breaks in and answers, as follows:

Mr. McVEIGH. There are 168 people helpless.

Senator MITCHELL. They require the care of an attendant all the while?

Mr. SMITH. Whenever they have relatives—husband, wife—they take care of each other. This gives rise to the system of kokuas. Generally husband or wife, who is clean, a parent, or child there ministers to the sick people until they die. There is a regulation there that within three weeks after the sick one has died the leper must leave, after undergoing an examination to see that there is no infection—must leave the place.

Senator MITCHELL. What disposition is made of the dead?

Mr. SMITH. There are burial places there.

Senator MITCHELL. On the island?

Mr. SMITH. On the island.

Senator MITCHELL. Are any of the dead removed?

Mr. SMITH. No, sir. Nothing is allowed to leave that place, nothing of their products, nothing used on the place.

In regard to the matter of the United States taking over the settlement and making a United States station, I am opposed to it.

Senator FOSTER. Why are you opposed to it?

Mr. SMITH. Because those people living there are living under their own conditions, their language, their diet, the climate; all these circumstances, in bringing in people from elsewhere, would be foreign to them, and their tastes, their traditions, their ideas, their food would be the cause of discord to these people there.

EXPENSE OF LEPER MAINTENANCE.

According to the reports of the board of health the expense connected with the maintenance and support of the leper settlement costs the Territorial government annually nearly \$151,000. The total appropriation for lepers for the biennial period ending June 30, 1903,

not including salaries or expenses of physicians, bacteriologists, pathologists, or sanitary inspectors, was, according to the testimony of Attorney-General E. P. Dole, who is ex officio a member of the board of health, \$301,902, and distributed for the following purposes:

Segregation, support, and treatment of lepers.....	\$171,000
Segregation of lepers' pay roll.....	60,720
Kalaupapa store.....	45,000
Support nonleprous children of lepers.....	20,000
Nonleprous children.....	3,182
Stamped envelopes for free use of lepers.....	,000
Total appropriation for two years.....	301,902
For a single year (one-half).....	150,951

(See testimony Gen. E. P. Dole, and statement of expenditures of board of health submitted by him to your committee—Appendix.)

Judge A. S. HUMPHREYS, late circuit judge in Honolulu, testified upon the subject of Leprosy as follows:

I desire to make some observations in regard to leprosy. I regard that matter of vital importance. Congress should have every information on the subject possible—more than it now has—in view of the fact that a bill is now pending before Congress looking toward taking control of the leper settlement and using it as a lazaretto for lepers of the United States. An effort was made to this effect, I believe, by the Delegate from the Territory of Hawaii. I desire to make some observations in regard to it.

It costs the Territory of Hawaii, in round numbers, to support the lepers on the island of Molokai \$750 per head. Each leper costs the Territory of Hawaii about \$750.

Senator MITCHELL. Per year?

Mr. HUMPHREYS. Per year. There are men living in this town and supporting families on less than that. Under the present patronage of the present government that has control it costs the enormous sum of \$765. Examine the appropriations in the report of the secretary and you will see that those supplies sent there do not equal the amount of patronage. The bulk of this is in patronage.

Mr. SMITH. One hundred dollars a year; about 1,000 people there. It is something under \$100 a year. I think you mean \$75 instead of \$750, the mistake is so obvious.

Mr. HUMPHREYS. I will ask to correct it in correcting my testimony, if I am wrong. It is almost impossible in referring to statistics to remember. In all other cases I have had the data before me, and it has been taken directly from recognized authorities. In regard to this matter I had undertaken to bear this data in my mind. If I have not been correct, which I am inclined to believe is the case, from the suggestion made by Mr. Smith, I will ask leave to correct it before I sign my testimony.

The fear that the United States will make a lazaretto of this country, that it will endanger the inhabitants, the attractiveness of the islands, to send all the lepers of the United States here is a claim not borne out by the number of lepers in the United States. I hold in my hand an extract from the Secretary of the Treasury in a report to the Senate, clipped from the Washington Post:

The Secretary of the Treasury yesterday sent to the Senate the report of a commission of medical officers of the Marine-Hospital Service appointed to investigate

the origin and prevalence of leprosy in the United States. The report shows 278 cases of leprosy in the United States, distributed as follows:

Alabama, 1; California, 24; Florida, 24; Georgia, 1; Illinois, 5; Iowa, 1; Louisiana, 155; Maryland, 1; Massachusetts, 2; Minnesota, 20; Mississippi, 5; Missouri, 5; Montana, 1; Nevada, 1; New York 7; North Dakota, 1; Texas, 3; Wisconsin, 3.

Of the total number, 176 are males and 102 females; 145 American born, 120 foreign born, and the remainder uncertain.

It is stated that 186 of the cases were contracted in the United States, but the opinion is expressed by the commission that this number is too large, and that some of these cases were brought from abroad.

This is going to be the policy of the United States—to establish a lazaretto for the lepers in the United States.

Gentlemen, it would be solitary instance to let Hawaii care for its own lepers. As far as I have been able to sound public sentiment, they would look upon the change from the control of the Territory of Hawaii to the National Government as a great boon. Senators, I doubt if there are 25 men in Honolulu to-day—to show how carelessly the leper settlement is run by the board of health—who can tell you the name of the physician, the controlling physician, of these lepers. Within the last six weeks a physician who drank, deserted his wife and children, was put in charge of the lepers, with no regard for public opinion and public sentiment. They sent him there, and within the last month they have discharged him. The papers did not say why, but I was informed they discharged him because he had improper relations with female lepers, in its criminal and revolting sense. This man was put in complete control of the lepers. It is a thing to chill one's blood in his bones.

I challenge anyone to deny that statement. The thing was not prosecuted, and the attorney-general is, ex officio, a member of the board of health. That man was allowed to quietly leave the country because the board of health did not wish to expose its own carelessness, its own recklessness, in putting that man in charge.

E. P. DOLE, attorney-general of the Territory, testified as follows:

Senator MITCHELL. Now, I wish to ask a question relating to the leper business. Are marriages permitted tween lepers?

Mr. DOLE. Yes.

Senator MITCHELL. How is that leper settlement divided as to persons who are married and persons who are not, if you know?

Mr. DOLE. Well, the leper settlement consists of two small villages, Kalaaupapa and Kalauao, 2½ miles apart. Most of the lepers live in cottages. The cottages are better on the average than the homes of people in ordinary circumstances throughout the Territory. They are well supplied with water, and the planting of trees and flowers is encouraged. The lepers, where it is possible, live as they would anywhere else in homes. A good many of them have kokuas.

Senator MITCHELL. What are kokuas?

Mr. DOLE. This: If, for example, a woman is so sick, in such a condition as to need constant attendance, and her husband applied for permission to go over there, this is a kokua. He goes there and takes care of her. It is in the discretion of the board of health. It depends upon their discretion, for there would be a very large population if everybody that wanted to go was allowed to go.

Senator MITCHELL. You say there are marriages and children born. Does the government take supervision of these children, and what precisely is done with them?

Mr. DOLE. I think those children go mostly into charitable schools.

Senator MITCHELL. They are permitted to be distributed out in the community, are they?

Mr. DOLE. Yes.

Senator MITCHELL. What do you think of that?

Mr. DOLE. I am not a medical man. I have the idea that it is a proper thing. I presume there can be no question about it, but I can't speak as a doctor would.

* * * * *

Senator BURTON. Do men and women live together who are not married?

Mr. DOLE. Well, I can not answer that. Presumably not.

Senator BURTON. You are on the board of health; that is under your jurisdiction.

Mr. DOLE. It is not permitted.

Senator FOSTER. It is a violation of the rules?

Mr. DOLE. A violation of the rules.

Senator BURTON. Theoretically or practically not permitted?

Mr. DOLE. Both.

Senator BURTON. Then it doesn't exist?

Mr. DOLE. I can't say in regard to that. The board of health can not and does not enter into an investigation.

Senator BURTON. Mr. Dole, didn't you—don't you think it would be wiser to separate the men and women in that leper settlement; have them kept separate?

Mr. DOLE. No; I don't. It is a question. There are two sides to it. These people—

Senator BURTON. That would eventually stamp out leprosy?

Mr. DOLE. Yes.

Senator BURTON. Is not that of greater consequence than any other one thing?

Mr. DOLE. I want to say this. These people—there is nowhere else on earth—and leprosy exists everywhere, every continent, every island where there are any number of people—where lepers are segregated, so far as I know, as severely as they are here. These people are taken from their homes. It is the duty of my department to render to the board of health every assistance in its power to find lepers and to transport them. They are taken away from their friends, relatives, associates, and put there on that little triangle. It is a beautiful spot, but shut off from everything on earth, with precipices on one side from 1,500 to 4,000 or 5,000 feet high, and are there without seeing anybody coming and going. Now, it is not for any crime, and while it might tend to stamp out leprosy, I would be slow to give my vote for a thing which would take the least bit of pleasure from the lives of those poor people. Then, I am not a doctor, but I can have my own opinion. Why, the doctors say they don't know anything about it; leprosy is so treacherous and so unaccounted for that I would want to have something more than theory before I deprived those people of the pleasures of home. They do not have very much to make life happy. As I understand, the mother and father may be lepers and then have a large family of children and it never appear again. And then men who are lepers may live with nonlepers and the nonleper never get leprosy.

Senator FOSTER. Doesn't it in future generations crop out?

Mr. DOLE. Senator Foster, Mr. Smith knows a great deal more about it than I do. My theory is—I don't know anything about it except as I hear the doctors talk about it, and use my own judgment—leprosy

may be to some extent incurred in the beginning from venereal diseases: that it comes by contact.

When I was at the leper settlement a few months ago there were 867 lepers. That is the smallest number for a good many years. Now, of those nearly 900 people, 7 were of the Caucasian race, Northern European, leaving out Latin races, American, British, and German, etc.—only 7. Seven were Portuguese. There were 147 persons at the most, out of almost 900 people, who were not Hawaiians; two or three Chinese and one or two Japanese and a few South Sea Islanders, who are Polynesian, actually the same as Hawaiians. About 96 or 97 per cent of the people there are of the Hawaiian race, and I consider the Hawaiians are only about 25 per cent of the population—only about 25 per cent of the population.

Senator FOSTER. Of the islands?

Mr. DOLE. Yes. I don't believe that segregation would be necessary if it were not for that. The Hawaiians eat out of the same poi bowl with their fingers; they are constantly kissing each other; they do all these things, and they do it more promiscuously than other nationalities. They are very wanting in taking care to prevent that sort of thing.

Senator BURTON. Now, Mr. Attorney-General, if there is to be any truth gathered from your statements it is that arrangements could not be made there which would permit, or promote rather, happiness without permitting the sexes to mingle and hold intercourse in the ordinary way of the propagation of the species.

Mr. DOLE. I don't think there are many children born there. There are some. How many I can not say. I have not the statistics at all.

Senator BURTON. Don't you think that the sexes could be kept apart in such a way as to prevent the birth of children without very materially destroying their happiness or detracting from the pleasures of life?

Mr. DOLE. I think nature is the same with them as with other people.

Senator BURTON. Do you believe that human nature produces most happiness in that way; is that your philosophy?

Mr. DOLE. I think it is very hard on those people to be shut up there in that way, and I think the community is bound to do everything in its power that is reasonable to make these people happy and keep them from absolutely being cut off from every human tie.

Senator BURTON. Would you say they would be shut off from every human tie to have the women there and the men near by, but not mix with them in such a way as to propagate?

Mr. DOLE. I should have to have a thousand men additional in my department to enforce any such regulation as that, and I don't know what could be done to guard them.

Senator BURTON. Well, you believe that they should be left together?

Mr. DOLE. My belief is this: Anywhere else on earth where they have lepers there is no such severe segregation as here. There is no segregation elsewhere. I believe we have gone far enough. We have gone further than any other people. The claims of humanity would come in to prevent me from going any further.

Senator BURTON. Don't you think that for the small number of people there are who are infected with this malady that in the interests of humanity, as well as in the interests of good morals, would make it better that there should not be children born there?

Mr. DOLE. Undoubtedly it would make it better, but the remedy is too severe.

Senator BURTON. You would take the risk, then, of allowing leprosy to remain rather than to impose terms of that kind to stamp it out?

Mr. DOLE. It has not been done anywhere else on earth.

Senator BURTON. You have insisted on that. You have only a few here in the settlement, but the proportion to the few inhabitants is immense. We have 80,000,000 of people and about 300 cases of leprosy.

Mr. DOLE. Senator, I doubt that statement.

Senator BURTON. But the best authorities are better posted than you are, Mr. Attorney-General.

Mr. DOLE. I would say this: I don't doubt that those are the statistics, not at all. There is not one doctor in the United States that knows anything about leprosy. The chances are that a man might have leprosy, it might be scattered all around the United States, and the chances would be that no more than one would be reported as a leper and get into the statistics.

Senator BURTON. But it could not be very prevalent?

Mr. DOLE. No.

Senator BURTON. We have 80,000,000 of people with less than 300 cases. It could not be prevalent. In the United States there is no doubt the men and women would be kept separate. I could not speak whether we would be right or not, but I am sure that they would not be living mixed together; but it may be wise for it to be done here.

Mr. DOLE. It is not for me to determine. If you go there and see these people, as I have done, the wretchedness of their condition—

Senator BURTON. But suppose you give them every pleasure; suppose it costs five or six times, ten times, as much; give them every accommodation; deprive them only of this single pleasure of cohabitation; do you mean to say that this single pleasure would overbalance all the benefits of life that people infected with this malady could have? Would it not be better for the human race to deprive them of this one thing?

Mr. DOLE. It might be; but the remedy is pretty severe.

Senator BURTON. Of course, we may have different opinions.

Mr. DOLE. You say they would soon adjust themselves. The Hawaiians are a kindly, simple people, childlike, and if it were not for that they would not endure the separation as they do. I don't think they feel things as long as some races. But it is a heart-rending thing to do—to take them from relatives and friends. I can not help having a great deal of sympathy for them.

Senator BURTON. No question but what we all, every right-thinking man, would have sympathy. One has sympathy for a lame man, sympathy for a thief. It is simply a sympathy of greater degree for this incurable malady.

Mr. DOLE. I am at a disadvantage in not being a doctor, but I understand that the children of lepers may go on for years and it won't appear again.

Senator FOSTER. Then it may crop out after several generations?

Mr. DOLE. If the children of leprous parents were always or usually lepers, then I would agree with your idea.

Senator BURTON. If like produces like, that is a rule—that is a truth instead of a rule—.

Mr. DOLE. Diseases are not always inherited. Some diseases are not inherited.

Senator BURTON. We can't see always, but if it is true that like produces like, a malady of that kind is very dangerous to allow children to be born. It seems to me we have your idea.

Senator MITCHELL. Can you tell bout how many children are annually taken away from that institution and deposited around among the people?

Mr. DOLE. I can not.

Senator MITCHELL. Can you approximate?

Mr. DOLE. I wouldn't dare to.

From information received by your committee, and from investigation of reports heretofore made, it is believed there are in the Hawaiian Islands to-day very many hundred more lepers than the number now at the leper settlement.

According to the report made by Dr. A. Moritz in 1885, in which he gives the nationality, number, and sex of lepers on the island of Molokai, he gives the total number received between the date of the establishment of that settlement and December 31, 1885, at 3,075; the lowest number received in any one year during that period being 51 in the year 1882, and the highest number received in any one year being 487, received in the year 1873.

Surg. D. A. Carmichael, U. S. Marine-Hospital Service, detailed by the President for duty at Honolulu, in accordance with the act of Congress approved February 15, 1893, with instructions to make a special report on leprosy, in his report of November 29, 1898, in which he gives approval to the report of Dr. A. Moritz, *supra*, shows that the number of persons sent to the Kalihi receiving station, near Honolulu, from the different Hawaiian islands for examination, and their pronounced condition for the two years ending December 31, 1897, to be 370. See following table:

Examined during period 1895 to 1897.

From island of—	Lepers.	Suspicious.	Not lepers.	Total.
Oahu.....	71	50	20	141
Hawaii.....	100	5	2	107
Maul.....	40	14	3	57
Molokai.....	10	1	2	13
Kauai.....	29	2	2	33
At Kalihi, Dec. 31, 1895.....	19			19
Total.....	269	72	29	370

while those sent to the leper settlement during the years 1895-97 were 256—165 males and 91 females.

Surg. D. A. Carmichael, in his report of November 29, 1898, among other things said:

Stricter segregation is demanded, and intercourse between those infected at the settlement should be prohibited, or allowed under more rigid methods of procedure, which would prohibit the well mingling with those diseased. Cohabitation between lepers should be prohibited. House-to-house inspection at proper intervals has never been practiced, and the buildings and effects of lepers have not been disinfectd or destroyed.

LEPROSY IN THE MAINLAND.

In considering and determining the question as to whether this leper settlement should or should not be placed under the control and management of the Treasury Department of the United States, and in charge of the Marine-Hospital Service, and as to the advisability of establishing a national leprosaria for all the lepers of the United States at this leper settlement in Hawaii, it may be well to consider the existence of and the progress made by this loathsome disease in the United States.

According to the report of the commission, authorized by the act of Congress approved March 2, 1899, to investigate the origin and prevalence of leprosy in the United States, and to report upon what legislation is necessary for the prevention of the spread of this disease, which report bears date Treasury Department, Marine-Hospital Service, Washington, November 30, 1901, transmitted to the Senate by the Secretary of the Treasury March 21, 1902, see Senate Document 269, first session Fifty-seventh Congress, there were in the United States at the date of that report, so far as that able commission after a most thorough investigation was able to ascertain, 278 cases of leprosy. Of these 278 cases, according to this report, 145 were born in the United States, 120 in foreign countries, and the birthplaces of the remainder 13 are unknown.

It further appears from this report that of the 278 cases of leprosy in the United States only 72 are isolated, showing over 73 per cent are at large.

It further appears from this report that so far as the nationalities are concerned more than one-half of the total number of cases are American born; Scandinavia comes next, there being 22 Norwegians, 11 Icelanders, and 8 Swedes; while of the Oriental races 20 are Chinese and 1 Japanese; Germany furnished 12; and the Spanish main 22, as follows: Bahamas 12, Cuba 6, and other West Indian islands 4; 3 of the cases are from Mexico, 6 from Ireland, and 3 from England.

According to this report, 21 out of all the States and Territories of the United States are found to have lepers within their borders. The disease is more prevalent in the Southern States—that is, the anesthetic variety—while the tubercular variety prevails more largely in the Northern States.

This report states, "As the disease is a contagious one, even though contracted with difficulty, the great need of proper institutions in the United States where these unfortunate people may be housed and treated is apparent, not only for the sake of the sick, but as a protection to the well."

This commission has, as is known to the Senate, recommended the establishment of at least one—preferably two—national leprosarias for the care and treatment of lepers, the same to be maintained by and under the supervision of the General Government. At the risk of prolonging this report your committee quotes the concluding recommendations of that commission:

Such leprosaria, to be of the greatest benefit, must be situated in a salubrious climate and be provided with every means for the treatment and care of their inmates and with the comforts of life and sources of occupation and amusement. They must be made as attractive as it is possible to make them, so as not to be looked upon as a species of poorhouse or prison by the victims of the disease. The best means to accomplish this end would be the selection of sites covering broad areas in healthful localities, where the inmates can have unlimited and unrestrained outdoor exercise and occupation, roaming over well-kept grounds, enjoying pleasant vistas, or engaged in tilling fertile fields as a distraction to their minds and in order to make their retreat a comfortable home rather than a miserable place of confinement.

Comfortable houses should be provided. Luxuries are not required, but the institutions should be provided with all the necessities and comforts requisite to making these retreats so attractive that, the fact becoming widely known, the unfortunate victims of this dread disease will, rather than hide their affliction, make known their condition and request admission to these public institutions of their own free will.

The patients must not be made to feel that they are under any restraint, and this again emphasizes the fact that large areas must be set apart for the uses of these proposed institutions, in most pleasant localities as regards climate and temperature. Ideal locations for such leprosaria, in the opinion of your commission, would be (1) arid Southwest; (2) similar regions farther north; (3) an island in the Gulf of Mexico, or an island near the Pacific coast of the United States.

We respectfully submit that the matter of establishing the proposed leprosaria and caring for those of our people who are suffering with leprosy should be made the subject of early action by Congress.

THE BALDWIN, BISHOP, AND KAPIOLANI HOMES FOR CHILDREN.

Too much praise can not be bestowed on two persons, H. P. Baldwin and O. R. Bishop, who were instrumental in establishing on the island of Molokai the two institutions known as the Baldwin Home for Boys and the Bishop Home for Girls, and each of which is maintained by the government. To these institutions, respectively, are consigned leprous children born of leprous parents in the leper settlement on the island of Molokai, the boys to the Baldwin Home and the girls to the Bishop Home. There is, in addition to these two homes, what is called the Kapiolani Home for what are supposed to be nonleprous girls, the offspring of leprous parents. This institution is located near the detention camp at Kalihi, near Honolulu. It is to this home children born on the leper island of leprous parents, and who are presumed to be nonleprous, are taken. The local government in making and maintaining these institutions in the interest of these unfortunate people is entitled to great praise, yet your committee is of opinion that no child born in the leper settlement of leprous parents should ever be permitted to leave the leper island, either to enter any institution or to mingle with the people generally.

IS THERE NOT GREAT DANGER OF LEPROSY SPREADING THROUGHOUT THE STATES AND TERRITORIES OF THE MAINLAND TO A MOST ALARMING AND DESTRUCTIVE DEGREE.

According to our figures, 1 out of every 179½ of the whole population of the Territory of Hawaii is to-day afflicted with leprosy and confined at the leper settlement. Whatever number of lepers there are at large in the islands, of course, increases this per cent in that proportion. It is estimated 1 out of every 100 in the islands is affected. This is the growth of less than half a century, as the first recognized, well-authenticated case of the disease in the islands was in 1858, forty-four years ago. In 1850 there was, according to the best reports, not a known leper in the islands, while in 1865 there were only 141, and to-day there are nearly 1,000. A like per cent of 1 to every 179½ in the mainland would give us 445,930 lepers. In view, therefore, of the fact that we now have at least 278 lepers on the mainland, 72½ per cent of whom are at large, scattered throughout 21 different States and Territories, and nearly 1,000 in our Hawaiian possessions, are we not seriously menaced by a deadly, incurable, and polluting malady, more to be dreaded than yellow fever, smallpox, cholera, or the bubonic plague. As the leper-stricken nations are brought nearer to us, and into more intimate relations with us in commerce and otherwise, the danger from infection becomes the more imminent. Colombia, at our very doors, it is said by competent authority, had in 1897, five years ago, over 27,000 cases of leprosy; twelve years ago they had but 18,000—an increase in seven years of nearly 50 per cent. India, according to a lecture read by Dr. Hitt before the Chicago Medical Society September 29, 1897, had then 25,000 lepers; China about the same number; British Guiana, 1,000; Trinidad, 860; Russia, 2,000; Egypt, 2,580; Malta, 73; while Mexico had a very large number.

The Government of the United States should be admonished by the history of other nations and prompted to take immediate and decisive action to stay the progress of and eradicate this loathsome disease in its insular Territory of Hawaii. The very highest and most advanced scientific skill, at no matter what cost, should be invoked without further delay for the purpose of discovering, if possible, the cause of this disease, and the remedy, if any, to be had for its cure. While the people and the local government of Territory of Hawaii are entitled to great credit for what has been done in this Territory in the way of segregation and care of these unfortunate people, it is the opinion of your committee a much greater degree of sanitary precaution and scientific treatment should be employed than has been, or possibly can be, by this local government. It is a grave subject, demanding national attention, and should not be left to the control and management of any local board or local government. Over six centuries ago all Europe was threatened with national pollution from this dreadful disease, and it was only by strenuous national effort at that time and later on that its spread was checked. According to Dr. Hitt's lecture there were in France alone during the reign of Louis VIII 2,000 leper asylums, while the number of leper asylums in all Europe was about 19,000. Dr. Hitt says:

By closely confining their lepers these countries have almost driven the disease out of the land. So long as segregation was practiced they succeeded admirably, but when they felt safe and became apathetic it began to increase.

LEPROSY.

By the recent report made by Capt. Seaton Schroeder, U. S. Navy, and at present naval governor of the island of Guam, submitted to the Secretary of the Navy, the fact is stated that leprosy has broken out in the island of Guam. Captain Schroeder's report is in part as follows:

In February I received the painful report of the discovery of four lepers living in the midst of a friendly community, where they had been harbored in well-intentioned but ill-advised concealment. A careful search was at once inaugurated, with the result that several more were soon located and others have come in since. I at once decided to segregate them, and after examining a number of more or less suitable locations, began the establishment of a colony on the shore of Tumon Bay, in the northwest part of the island. This site, while sufficiently distant from any village for the safety of the latter, is within practical reach from Azana by a fairly good road. It is a very pretty spot, and healthy, fronting upon a nice, clean beach, and while exposed as these places are to the winds of typhoons, it is practically secure from destruction by their tidal waves, because of being on the western coast.

It is proper to state in this connection that a petition was presented to your committee purporting to be signed by a very large proportion of the lepers at the leper settlement, in which they say:

[Translation.]

*To the honorable Subcommittee of the United States Senate
Committee on Pacific Islands and Porto Rico.*

GENTLEMEN: We, the unfortunate residents of the leper settlement on Molokai, would respectfully present the following memorial relative to our position and circumstances, and would ask you to consider the same and present it to your colleagues on your return to Washington:

First. We beg respectfully to represent that we are here not of our own free will, but at the instance and by the power of governmental authority as a measure of sanitary precaution and protection for the

community at large, and that our lot is a hard one by reason of a compulsory separation from home and friends. The hardships of our lot are, however, softened to a certain degree by the freedom of our life here under the present system of rules and regulations. Therefore we most earnestly deprecate and protest against any legislation which would curtail our liberties and subject us to further and greater hardships than we now have to endure. And in particular we would protest against any law being enacted tending to the separation of sexes, a measure which in our humble opinion would lead to serious disturbances without any commensurate benefit.

Second. We would respectfully represent that we are not in favor of transferring the care and management of the settlement to the Federal Government, but heartily indorse the position taken by the honorable Secretary Cooper that the Territory is able to take care of us. It is true there are many minor details which might tend to improve our condition, but in the main we are happy and contented under the present régime and earnestly hope that no change will be made as far as governmental control is concerned.

I na mea hanohano, hope komite o ka aha senate no na pae aina pakipika ame Porto Rico.

ENA KEONIMANA: O makou ona poe iloko oka Ehaeha e noho ana ma ke Kahua Mai Lepera ma ka Mokupuni o Molokai, ke waiho aku nei me ka haahaa i keia Memoriala e Pili ana no kou makou kulana ame ke ano o ko makou noho ana, ke nonoi aku nei imua o oukou no ka oukou noonoo ana a waiho aku hoi imua a ko oukou mau hoa i ko oukou namawa e hiki aku ai i Wasinetoua.

1. Ke hoike aku nei makou me ka haahaa, ke noho nei makou maanei, aole ma ko makou makemake ponoi iho aka mamuli no ia o ka mana o ke Aupuni no ka manao makee i ke ola o ka lehulehu, a he kulana kupilikii no ia i kau iho maluna o makou mamuli o ko makou hookaawale ia ana mai ko makou mau home ame ko makou mau makamaka mai me ka lima ikaika. A ua hooemi iki ia mai nohoi ko makou noho pili hua ana ma ke ano o ko makou noho ana maanei i keia wa. Malalo o na rula Hooponopono i kau ia no makou i keia manawa. Nolaila ke kue ikaika loa nei makou i kekahi mau hooponopono hou e laweia mai ana no ka hoohoiki a hooemeiia mai ana paha ike ano o ko makou noho Akea ana a hookau hou iho ina hookaunaha ana i oi aku i ko keia manawa e hoomanawanui ia nei e makou. A, e kue ikaika no makou i kekahi Kanawai e Hooholoia ana no ka hookaawale ana i ka noho pu ana o na kane ame no wahine, he hana ia a makou e manao nei e ala mai ai kekahi mau hounaele nui e loa ole ai kekahi pomaikai.

2. A ke hoike nai makou me ka haahaa aole o makou apono e lilo ka malama ame na hooponopono ana o ke Kahua Mai Lepera malalo o ke Aupuni Federalo, aka, ke apono loa nei makou i ke kulana a Hon. Kakauolelo Cooper i kalele iho ai ma ka olelo ana au hiki no i ka Teritore ke malama ia makou. He oao he lehulehu no na mea i manao ia e hiki ke loa ia makou ke hoomahuahua ia ae ke ano o ko makou noho oluolu ana aka ma ka hoomaapopo ana ike ano o ko makou noho ana i keia manawa ua loa no ia makou ka noho oluolu a lawa pono no hoi malalo o na hooponopono ana a makou e noho nei a o ka makou iini ame ko makou manaolana nui aole loa e hoololiiia ae ko makou malama ia ana malalo o kekahi aupuni o koa.

Your committee was presented with 13 separate copies of a petition, signed by 826 persons, all claiming to be citizens and voters, some in each electoral district and district and island in the Territory,

earnestly praying Congress to provide by the passage of a law providing that the Government shall take full charge and control of the leper colony at Kalaupapa, on the island of Molokai, to be henceforth known as the Molokai Reservation for the segregation and maintenance of leprosy persons of the United States, the same to be under the authority, charge, and direction of the Secretary of the Treasury of the United States.

(See appendix.)

AN IDEAL PLACE FOR A LEPROSARIA.

There is ample territory at the leper settlement to accommodate many more than twice the number now there. The whole area of the island of Molokai is 261 square miles, while the peninsula on which the settlement is located has an area of 8 square miles; the breadth of the base of the peninsula where it joins the cliffs, according to different reports, is $2\frac{3}{4}$ miles; breadth at center, $2\frac{1}{2}$ miles, and length, 1 mile. There is a magnificent water supply for the whole settlement from springs in the side of the mountain. This water is conducted by pipes carrying as much as 1,500,000 gallons of water daily, and it is said in the report of L. E. Cofer, passed assistant surgeon. U. S. Marine-Hospital Service, chief quarantine officer of the Hawaiian Islands, in his report to the Surgeon-General of the Marine-Hospital Service of date September 20, 1901, "that the development of ten times this quantity would be possible."

RECOMMENDATIONS OF THE COMMITTEE.

In view of all the circumstances your committee feels constrained in the public interest, as well also in the interest of this unfortunate class of people, to recommend, and does recommend, that the control and management of the lepers at the leper settlement on the island of Molokai be transferred from the local Territorial government to the Government of the United States, Treasury Department, to be in charge specially of the Marine-Hospital Service; and

Second. It is the opinion of your committee that the island of Molokai, Territory of Hawaii, is, by location, climatic conditions, and isolation, and in almost every other respect, most admirably adapted as a location for a national leprosaria, as recommended by the report of the commission appointed under the act of Congress approved March 2, 1899, *supra*, and to which might be transferred all lepers now in the United States. That commission in recommending what they believe to be an ideal location for such leprosaria included, among others, "an island near the Pacific coast of the United States."

JOHN H. MITCHELL,
JOSEPH R. BURTON,
ADDISON G. FOSTER,
JOSEPH C. S. BLACKBURN,
Subcommittee.

FIRE CLAIMS.

During the sessions of your committee numerous appeals were made in the form of memorials, petitions, and letters praying your committee to make a personal investigation as to the character and validity of what are known as the "fire claims," growing out of the destruction of property in Honolulu during the bubonic plague in the years 1899 and 1900; this is to be supplemental to the investigations heretofore made by the full Senate Committee on Pacific Islands and Porto Rico.

In response to these appeals your committee made diligent inquiry, not only into the cause of the destruction of property and the manner of such destruction, but also into the mode and thoroughness in which such claims had been inquired into and adjudicated by the commission provided by the Territorial legislature for that purpose; and your committee, after inquiring into the necessity for the destruction of property, selected by lot eleven different claims from among the total number filed with the claims commission, the claimants being of different nationalities, and made a thorough investigation, first, into the character of the claims presented, the kind, amount, and value of the property destroyed; and, secondly, into the character of the investigation made by the fire-claims commission. And your committee calls attention to the testimony taken by the fire-claims commission in its investigation of these eleven different claims, together with testimony taken by your committee in connection with the investigation generally, and all of which is submitted as a part of this report. (See appendix.)

Your committee feels bound to say that the investigation by the commission appointed by the Territorial legislature to investigate these claims was of the most commendable, judicial, and thorough character. In almost every instance the claims were largely reduced in amount, many of the claims presented being for amounts not warranted by the facts. The total number of claims presented to the commission was 6,748, amounting in all to the sum of \$3,175,132.90, while the total amount allowed by the commission was \$1,473,173, or 46.39 per cent of the aggregate amount claimed.

The following table shows the number of claims of, aggregate amounts claimed by, and amounts allowed, respectively, to the different nationalities:

Nationality.	Claims.	Amount claimed.	Amount awarded.
Japanese	2,574	\$639,742.99	\$333,730.10
Chinese	3,728	1,761,112.04	845,480.80
Hawaiians	278	342,526.81	144,242.50
Portuguese	19	81,658.47	24,117.45
Other nationalities	128	272,829.76	125,602.15
Fire insurance companies	21	77,262.80	.....
Total	6,748	3,175,132.90	1,473,173.00

This shows the following per cent awarded to each nationality on the total amount claimed by each nationality, as follows:

	Per cent.
To Japanese	52. 16
To Chinese	48. 00
To Hawaiians	42. 11
To Portuguese	29. 53
To other nationalities	46. 40

Fire insurance companies' claims disallowed.

Your committee has carefully scrutinized all the testimony heretofore taken in regard to these claims by the full Committee on Pacific Islands and Porto Rico, and after a thorough investigation made by your committee in Honolulu in September last has reached the following conclusions:

First. Your committee finds that, as hereinbefore found by the full Committee on Pacific Islands and Porto Rico (see Senate Report No. 1933, first session Fifty-seventh Congress), "the measures resorted to for the suppression of the plague were necessary; that the authorities of Honolulu and the Hawaiian government did all that prudent men could be expected to do under such circumstances to avoid incurring unnecessary expense and injury to property, and yet properly protect the health of the community."

Second. That the investigation as to the character of these claims made by the local fire-claims commission of Honolulu, in pursuance of authority conferred by the Territorial legislature, was in all respects carefully, thoroughly, and judicially conducted.

Third. In view of all the circumstances connected with the case and of the enfeebled condition financially of the Territory of Hawaii by reason of the withdrawal under the organic act of all customs revenues and internal taxes, and from all the facts set forth in Senate report, supra, that it is the duty of the Government of the United States to reimburse the Territory at least to the extent suggested by Senate bill 6216, first session Fifty-seventh Congress, entitled "A bill to pay in part judgments rendered under an act of the legislative assembly of the Territory of Hawaii for property destroyed in suppressing the bubonic plague in said Territory in 1899 and 1900, and authorizing the Territory of Hawaii to issue bonds for the payment of the remaining claims," as reported to the Senate July 1, 1902, by Senator Foraker, chairman of the Committee on Pacific Islands and Porto Rico.

For all testimony taken by your committee in connection with these claims see appendix.

Your committee regards the conditions relating to these claims as *sui generis*, and the allowance of these claims could not properly be considered a precedent upon which to base payment of claims arising from like destruction of property in any other part of the United States or any of its Territories, in no part of which it is believed like conditions exist.

Your committee recommends the passage of bill S. 6216, first session Fifty-seventh Congress.

(For memorials, petitions, and testimony see appendix accompanying this report.)

JOHN H. MITCHELL,
JOSEPH R. BURTON,
ADDISON G. FOSTER,
JOSEPH C. S. BLACKBURN,
Subcommittee.

The above bill has passed the Senate since this report was written.

THE KOHALA DITCH ENTERPRISE.

Pending the sittings of your subcommittee in Honolulu appeal was made by the representatives of the Hawaiian Ditch Company, Limited, concurred in by Mr. A. C. Gehr and his associates representing conflicting interests, in connection with the Kohala Ditch Enterprise, island of Hawaii, to supplement the investigation conducted by the Senate Committee on Pacific Islands and Porto Rico, in Washington, during the late session of Congress, by further inquiry and by the taking of additional testimony bearing upon the questions, first, as to the feasibility and advisability of the business project known as the Kohala Ditch Enterprise in the island of Hawaii, and, second, as to the respective rights of the different claimants for a license to construct such ditch, and, third, as to the advisability of the passage of House bill 11997, first session Fifty-seventh Congress, which passed the House of Representatives March 14, 1902, either with or without the respective amendments proposed to said bill in the Senate, namely, that proposed by Mitchell June 9, 1902, or that proposed by Senator Foraker June 10, 1902.

In response to this appeal your committee devoted two full days—September 11 and 12, 1902—to this purpose, in Honolulu, during which time a number of witnesses were examined and a large amount of testimony was taken. (See Appendix, p. 7.) All the testimony taken by your committee will be found in the Appendix accompanying this report, and attached to said Appendix will be found the several exhibits submitted by witnesses on the stand during their examinations, as follows:

Exhibits filed by Samuel Parker and his associates, marked "Exhibits 1 to 9" (see pp. 112-127), both inclusive, and exhibits filed by J. W. Jones and his associates, and marked "Exhibits A to E" (see pp. 130-137), inclusive.

Your committee after a reexamination of the testimony heretofore taken before the full committee, and of the testimony taken by your committee at Honolulu, and a personal examination of the region of the proposed ditch enterprise on the island of Hawaii, is clearly of the opinion that the proposed enterprise is one of very great merit and one, therefore, that should receive the cordial and active encouragement of Congress.

All parties interested, although the interests are conflicting, as well as the leading officials of the Territory, not specially interested, concur in the statement that the construction of the ditch, in the district in which it is proposed to construct it, will, under proper governmental conditions, be one of very great advantage, not only to the Government of the United States, by vastly increasing the value of some 20,000 acres of land which the Government owns, and which will be benefited by the construction of the ditch, and which is to-day without irrigation practically of no value whatever, but will be also, which is of still more importance, of untold benefit to a great number of individual homesteaders and other settlers on the public lands in the vicinity of the proposed enterprise.

These include planters and homesteaders occupying the lands contiguous to the proposed ditch, and where at present by reason of the slight rainfall the lands are almost wholly unproductive; whereas proper irrigation, which will be supplied by this ditch, will enable the planters either on a large or small scale to produce a cane crop every year, or at least two crops every three years, and in that event large tracts of land which are to-day of really little or no value will be worth from \$100 to \$300 per acre.

Your committee, therefore, without any hesitation indorses the proposed enterprise as one that ought to receive the encouragement, under proper conditions, of the Government of the United States.

Second. Your committee, after a careful examination of all the testimony heretofore taken before the full committee, and of the testimony and exhibits submitted to us in Honolulu, is clearly of the opinion that those interested in the Hawaiian Ditch Company were prior in time, as between the conflicting claimants for license, in initiating surveys and making application for license to construct the ditch in question, and that, therefore, they are prior in right; and as between the representatives of the Hawaiian Ditch Company and Mr. Gehr and his associates, the former are, under all the circumstances, entitled to preference in the matter of a license to construct the ditch in question, especially in view of the fact that both parties are applicants for a license for substantially the same enterprise and a license for a ditch occupying substantially the same area. Your committee, without entering into an elaborate argument or undertaking to reconcile the many conflicting statements of the respective witnesses and representatives of each claimant, bases its opinion and recommendation upon the testimony, as a whole, taken before the full committee in Washington and before the subcommittee in Hawaii, it being the opinion of your committee that the weight of testimony clearly shows the parties represented by the Hawaiian Ditch Company to have been prior in time in initiating the enterprise referred to and in making application for license.

Third. Your committee further is of the opinion that there are strong public considerations which ought to induce Congress to support the bill (S. 11997) hereinbefore referred to, with the amendment proposed by Mr. Mitchell in the Senate on the 9th day of June, 1902. These public considerations are as follows: This ditch enterprise can not be constructed except by a very large expenditure of money. It is not hoped or expected for one moment that this amount of money can be raised in Hawaii for this enterprise. It must, therefore, be furnished by financiers from the mainland or from some other country. Capital is always timid, and it is most difficult, as all know, to induce investors to place their money in any enterprise if there exists any doubt whatever as to the legality of the procedure, upon the part of the corporation, company, or party engaged in such enterprise.

Fourth. It is a record fact in connection with the question as to whether the local government of Hawaii has power to issue a license authorizing the construction of this ditch that there have been absolutely contradictory opinions by the Department of the Interior as to the existence of such power upon the part of the local authorities. First the Department held the local government had this power; subsequently on the — day of —, 1902, a decision was rendered by Assistant Secretary of the Interior Ryan, holding that no such power existed in the local government. (See his letter, Appendix, p. —.) Again, later on another opinion was rendered by the Assistant Attorney-General for the Department of the Interior, and approved by the

Secretary of the Interior, in which it is held that the local government had the power to issue such license.

Your committee, therefore, is of the opinion it would be a great piece of unwisdom to relegate these parties, any or all of them, to the local government for a decision upon the question as to which of them, if either, should have this license. The local government either has or has not the power under existing law, and that is a question that can, and in all probability would, come before the judiciary for determination. This being so, it is not to be expected that capital will be found to run the risk of an investment in an enterprise the legality of which is unsettled and liable to be determined one way or the other by the judiciary.

But aside from the question as to whether the local government has or has not the power to issue a license such as that desired by the respective parties in reference to this ditch enterprise, and assuming for the moment that there is no question at all as to the existence of such power, your committee is of the opinion that even then, under existing conditions, under no circumstances whatever should the local government of Hawaii be permitted to exercise the power or to retain it by the consent of Congress, for the reasons that the conditions at present in that Territory—the conflicting interests and local prejudices—make it wholly inadvisable that the question be left to its determination. The whole policy of the Territory in its dealings with the public lands is so absolutely antagonistic to the American policy that the Government should not contemplate, in the judgment of your committee, for one moment the idea of recognizing any such power in the local government. The American policy is to preserve the public domain for homesteaders. The Hawaiian policy is to hold the public domain as a source of revenue to the government by virtue of long leases, ranging in terms from five to twenty-one years, and covering large tracts of land. The character of these lands, as to whether same are agricultural, pastoral, or mountain, to be determined solely by the commissioner of public lands in the Territory, and to this policy the present officials in Hawaii seem to be wedded.

For these reasons and others that might be suggested, your committee is unqualified in its opinion that no power whatever upon the part of the local government to issue licenses or charter privileges to corporations, companies, or associations of persons in connection with the public lands should be recognized.

Fifth. The next and last question for consideration is as to whether the House bill, with one or the other of the amendments proposed in the Senate, should have the support of the Senate—in other words, whether Congress shall decline to grant a license to either of the contending parties and submit the whole thing for consideration and determination, subject to the approval of the Secretary of the Interior, to the governor, attorney-general, and commissioner of public lands of the Territory, as provided in one of the amendments pending. To do this would, in the opinion of your committee, be not only an injustice to the Hawaiian Ditch Company and the representatives of that company, for reasons hereinafter stated, but would result in very great delay in the inauguration of this very important work. The reason your committee says it would be an injustice arises from the fact that after the Department of the Interior had rendered its decision as above, to the effect that the local government had no power whatever to issue such license, and relying on that decision as the law of the case, and after an effort had been made to secure a reconsideration of that decision without success, they came on to Washington, applied to

Congress, and have succeeded in securing passage of the House bill referred to.

It is the opinion of your committee under all these circumstances that this company is entitled to consideration at the hands of Congress, and it is further the opinion of your committee that until some radical change is made in the control, management, and disposition of the public lands in Hawaii, as there must be at no distant day, and in favor of which your committee will report and recommend, it would be very unwise to submit either to the local authorities or to the Secretary of the Interior the right, or give to them or either of them, either jointly or separately, the power to issue any license authorizing the construction of any important enterprise as is the one proposed, but, until these changes are made in the manner of dealing with public lands generally in Hawaii, any license granting important franchises or privileges issued to any corporation or company or association of persons in Hawaii, authorizing them to engage in any public enterprise, should come directly from the Congress of the United States.

In view, therefore, of all the circumstances, your committee reports as follows:

First. The enterprise known as the Kohala Ditch Enterprise is one of great merit and should receive the favor of Congress.

Second. As between the conflicting claimants for a license—the Hawaiian Ditch Company, Limited, and Mr. Gehr and his associates—the former were prior in time in entering the field, and therefore are prior in right; and as between the two the former should have the preference.

Third. That it would be unwise for the local government of Hawaii, in view of the conflicting decisions of the Department of the Interior as to its power, to issue a license to either the Hawaiian Ditch Company or to Mr. Gehr and his associates, or any other corporation, company, or association of persons, for the reason that the title would be involved in doubt, and therefore, instead of inviting and welcoming capital, would discourage and drive it away.

Fourth. Until Congress shall provide some different mode of dealing with the public lands in the Territory of Hawaii and shall take the control and disposition of public lands, now illegally and, as your committee believes, unconstitutionally being disposed of by the local government, out of the hands of the Territorial government and places the same under the control and subject to the disposition of the proper land department of the United States, no license or charter of any kind should be issued to any corporation, company, or association of persons in Hawaii or elsewhere in reference to any enterprise in that Territory, except by the Congress of the United States.

Your committee, therefore, in view of all the circumstances, recommend the passage of bill H. R. 11997, first session Fifty-seventh Congress, with the amendment now pending in the Senate Committee on Pacific Islands and Porto Rico, presented by Mr. Mitchell to the Senate June 9, 1902, and referred to that committee. This proposed amendment, it is believed, if adopted, will, in connection with the provisions of the House bill, protect all interests there of the Government of the United States, the Territorial government, and all homesteaders, planters, and other settlers.

JOHN H. MITCHELL,
JOSEPH R. BURTON,
ADDISON G. FOSTER,
JOSEPH C. S. BLACKBURN,
Subcommittee.

CLAIM OF LILIUOKALANI.

During our investigation Liliuokalani (Mrs. Dominis), the late queen, presented through her attorneys a petition signed by her, preferring a claim against the United States. This petition follows:

The Honorable subcommittee of the United States Senate, Committee on Pacific Islands and Porto Rico.

HONORABLE SIRS: On the 17th day of January, A. D. 1893, the undersigned was the queen and constitutional and lawful sovereign of the kingdom of Hawaii. At that time the kingdom of Hawaii was an independent and sovereign nation, respected as such and accorded its appropriate place in the family of nations, and was capable of executing its treaty obligations with the civilized powers of the world, and more particularly with the United States of America, between which and the kingdom of Hawaii there had existed for nearly three-quarters of a century an unreserved friendship, marked by close, cordial, and candid intercourse.

On the date aforementioned, subjects of the Hawaiian Kingdom, of numerical insignificance, conspiring with and succored and assisted by aliens, renounced their allegiance to their sovereign and revolted against the ordained, established, and constitutional Government of Hawaii, and advised, counseled, comforted, abetted, aided, and assisted by the minister plenipotentiary of the United States, duly accredited to the Kingdom of Hawaii, who, in furtherance of the schemes and plans of those in rebellion against the organic and lawful authority of the Hawaiian Kingdom, and for the purpose of inspiring such authority with fear and terror, caused to be landed from the United States ship *Boston*, then in the harbor of Honolulu, a large force of armed marines and sailors, did subvert and overthrow the then existing and recognized constitutional Government of the Hawaiian Kingdom, and did depose me from the sovereign station as Queen thereof, and did establish a provisional government, "to exist until terms of union with the United States have been negotiated and agreed upon."

Upon receiving incontestable and conclusive proof that the minister plenipotentiary of the United States had aided and abetted my rebellious subjects and the aliens acting in concert with them, and that he had directed the armed forces of the United States to be landed and quartered in Honolulu to enable them to effectuate their conspiracy, I submitted to the superior force of the United States. This action on my part was prompted by my knowledge of the futility of a conflict with the United States; the desire to avoid violence, bloodshed, and the destruction of life and property, and the certainty which I felt that the United States, ever actuated by generous and chivalrous motives, Christian impulses, and a broad and enlightened sense of justice, would promptly repair the wrongs inflicted upon me in the premises. The provisional government, inaugurated through the unlawful intervention of the armed forces of the United States in the manner stated, having failed to negotiate "terms of union with the United States of America," in the meantime, on the 4th day of July, A. D. 1894, the republic of Hawaii was ordained and established and its constitution promulgated.

At the time of the overthrow of the government of the Kingdom of Hawaii, as above set forth, I was the owner in fee and was enjoying the rents, issues, and profits of certain real estate situated in the said Hawaiian Kingdom known as the "Crown lands," covering a superficial area of about 971,463 acres, and of the value of \$20,000,000; that I was dispossessed of all and of every of said lands and deprived of the income arising thereout by the said provisional government and by the said Republic of Hawaii, and that by and under the terms of the joint resolution of the Congress of the United States, "To provide for annexing the Hawaiian Islands to the United States," said Crown lands now constitute a part of the public domain of the United States of America.

My deprivation of said lands and of the rents, issues, and profits thereof by the said provisional government and the said Republic of Hawaii, and the assumption

SECOND INSTRUMENT.

Know all men by these presents: That I, Kamehameha III, by the grace of God King of these Hawaiian Islands, do hereby give, make over, and set apart forever, to the chiefs and people of my Kingdom, and convey all my right, title, and interest in the lands situated here in the Hawaiian Islands, inscribed on pages 179 to 225, both inclusive, of this book, to have and to hold to my chiefs and people forever. These lands are to be in the perpetual keeping of the legislative council (nobles and representatives), or in them and the superintendents of said lands, appointed by them from time to time, and shall be regulated, leased, or sold in accordance with the will of said nobles and representatives, for the good of the Hawaiian Government, and to promote the dignity of the Hawaiian Crown.

(See Civil Code 1864-65, p. 69.)

It is further disclosed by the Government records that this decree, embodied in these two instruments, was on June 7, 1848, accepted, ratified, and confirmed by the then house of nobles and representatives of the Hawaiian Islands in legislative assembly. (See Civil Code of 1859, p. 374.)

By this act of distribution certain lands therein designated, and thereafter known as the "crown lands," were, as said decree was for many years construed, reserved as the private personal property of the reigning sovereign, liable to alienation, subject only to the rights of tenants, as for a long time claimed, with the right of descent to the natural lineal heirs of the sovereign.

The following table represents the number of acres allotted by this decree, respectively, as government lands, crown lands, chiefs' lands, and keulanas (ordinary tenants) lands:

	Acres.
Government lands.....	1, 495, 000
Crown land.....	984, 000
Chiefs' lands.....	1, 619, 000
Keulanas (ordinary tenants) lands.....	28, 000
Total.....	4, 126, 000

After this reservation in this decree of distribution King Kamehameha III and his successors dealt with these lands as their private property, selling, leasing, and mortgaging the same at their pleasure.

After the death, however, of King Kamehameha IV the supreme court of the kingdom, on a proper case presented," decided that under the instruments of reservation above set out, executed by King Kamehameha III on March 8, 1848, and under the confirmatory act of June 7, 1848, *supra*, the inheritance in said decree and act was limited to the successors to the throne, and did not inure to the natural heirs of the sovereign.

Subsequently the legislature of Hawaii, acquiesced in by the then reigning sovereign, Kamehameha V, and approved by him, by an act of January 3, 1865 (see Civil Code, p. 69), determined that the lands thus reserved to the crown by the decree of Kamehameha III, of March 8, 1848, and confirmed by the legislative council of June 7, 1848, should henceforth be *inalienable*, and not subject to lease for any longer term than thirty years, and should descend by inheritance to the heirs and successors of the Hawaiian crown forever.

From the date of this act, January 3, 1865, until the overthrow of the monarchy, these crown lands were regarded as the lands and estate of the *reigning monarch*, as such, inalienable, however, but subject to lease for terms not exceeding thirty years, the rentals to go absolutely to the occupant of the throne, except that one-fourth part of the same

" See Hawaiian Reports 1864, page 715.

should go to the national treasury to aid in the liquidation of the interest and principal of certain exchequer bonds, the payment of which was chargeable on these crown lands, and all of which were subsequently paid, and the bonds redeemed, in part from the one-fourth part of the income from the crown lands. These bonds were all redeemed prior to the date when Liliuokalani ascended the throne.

So, at the date of the overthrow of the Queen, the then Queen, Liliuokalani, was, in virtue of the then existing laws of the monarchy, entitled as her *personal estate* to the entire rentals of all the crown lands, with the right to use and dispose of them according to her own pleasure, and without being required to account to anyone therefor; but she had no other personal right or title to said lands, or any part thereof—had no legal or equitable title to a single acre of the same; she had no right to mortgage any part thereof, and had she died at any time prior to her dethronement all these lands, including the rentals thereof, would, under the then existing laws, have descended, not to her *natural heirs*, but to her *successor on the throne*, whose interest therein would have been precisely that of the deceased Queen—no greater, no less.

On the establishment of the Republic, succeeding the overthrow of the Monarchy, the status of these Crown lands—that is, as to the legal title to the same—was settled by the following clause in the constitution of the Republic:

[Extract from the Constitution of the Republic of Hawaii, 1894.]

MISCELLANEOUS PROVISIONS.—ARTICLE 95. CROWN LAND.

That portion of the public domain heretofore known as Crown land is hereby declared to have been heretofore and now to be the property of the Hawaiian Government, and to be now free and clear from any trust of or concerning the same, and from all claim of any nature whatsoever upon the rents, issues, and profits thereof. It shall be subject to alienation and other uses as provided by law. All valid leases thereof now in existence are hereby confirmed.

And following this, when the islands passed to the United States and the Government of the Republic became absorbed by the Territorial government, Congress, in the organic act approved April 30, 1900, provided as follows:

CHAPTER VI.—MISCELLANEOUS.

SECTION 99. That the portion of the public domain heretofore known as Crown lands, is hereby declared to have been, on the 12th day of August, eighteen hundred and ninety-eight, and prior thereto, the property of the Hawaiian government, and to be free and clear from any trust of or concerning the same and from all claim of any nature whatsoever upon the rents, issues, and profits thereof. It shall be subject to alienation and other uses as provided by law. (Vol. 31, U. S. Stats., sec. 99, page 161.)

From what has been said, and taking into consideration the facts relating to the dethronement of the Queen and the overthrow of the monarchy on January 17, 1893, and the subsequent erection of a provisional government in its stead recognized by all foreign powers, and which it is unnecessary to recite here, as they are all a matter of political history, your committee deduces as incontrovertible the five following propositions:

First. That the legal and equitable title to all the lands hereinbefore referred to as "crown lands" is in the United States, and has been since the date of annexation.

Second. The legal title to these lands never vested *personally* in the former Queen Liliuokalani, but was held by her as sovereign in trust for herself as sovereign and her successors on the throne;

Third. From the date she ascended the throne to the date of her dethronement Queen Liliuokalani was entitled, as her individual separate estate, with the right to use and dispose of it as she pleased, to the entire rents accruing from these "crown lands."

Fourth. That by the dethronement of the Queen and the establishment of a provisional government in its stead, which was recognized not only by the people of Hawaii, including the ex-Queen, but by all the civilized nations of the globe, all *legal* claim of the late Queen to any of these crown lands, and to any future revenues arising therefrom, was, under the well-understood principles of international law, at once and forever cut off; and

Fifth. Whatever allowance is made to the ex-Queen by the Government of the United States can not, and must not, be based upon any *legal* right upon her part, or be in recognition of any *legal* claim on her part on account of loss of her sovereignty or crown lands, but must rest solely upon considerations of *national grace, public and private justice, political policy, and fair, equitable dealing* upon the part of a great and powerful nation—principles always recognized in the great unerring forum of the individual and national conscience.

Your committee further finds from an examination of the records of the government of the late monarchy, that the total rentals of these crown lands, at the date of the dethronement of the queen—that is, for the two years ending March 31, 1894, which extends fourteen and one-half months beyond the dethronement—was \$98,537.50, or an average for each of these years of \$49,268.75.

This, however, does not include the rentals represented by special leases issued under settlement conditions, or in the nature of homesteads. These are payable, according to the terms of the lease, at the commencement of the fourth year, and now, 1894, aggregate a total of \$15,681.57 annually.

This statement is a quotation from the biennial report of the commissioner of crown lands for 1894. This statement, however, included the rentals of the lease made in September, 1893, known as the "Puukapu settlement," and which settlement was made September, 1893, seven months after the dethronement of the queen, and which included 933.75 acres, the annual rental being \$238.65.

RENTALS RECEIVED FROM CROWN LANDS FROM JANUARY 17, 1893, TO SEPTEMBER 1, 1902.

Your committee further finds, from an examination of the records of the late Republic and the existing Territorial government, that the total amount of rentals of these crown lands received by the Government since the date of the Queen's overthrow, January 17, 1893, to September 1, 1902, was \$432,378.06, or an average per annum for a period of nine years and 6 months of \$45,039.38, and all of which have since the date of the overthrow been taken and used by the respective governments which succeeded the monarchy, namely, the provisional government, the Republic, and later and now the Territorial government.

[See statement of Land Commissioner Boyd—Appendix, pp. 48–57.] There are at the present time 971,463 acres of these crown lands, or lands formerly belonging to the monarch, and which are now a part of the public domain of the United States, less small quantities that have

been disposed of since the Queen's dethronement, and they are located in the different islands of the group as follows:

Islands.	Acres.	Estimated value.
Hawaii.....	642,852	\$992,300
Molokai.....	69,121	180,500
Lanai.....	20,892	25,000
Kauai.....	17,369	17,000
Niihau.....	66,598	518,450
Kaula.....	154,636	581,000
Total.....	971,463	2,314,250

Most of these lands, all except a few acres, were and are held by tenants under long leases. All these leases, together with the rentals from same, passed from the Republic to the United States, and have been recognized, and the rentals have been treated as belonging to the Government.

The value placed upon these lands as above is the assessed taxable value; it is claimed by the petitioner that this is much less than the real value. It will be observed, however, that the present average annual rentals of \$45,039.38, in the aggregate, without any deduction for management, collecting rents, and the like, would be about 2 per cent per annum on the above value of \$2,314,250. Upon the other hand it is claimed, and we think with much force, that these lands are rented at a rate very much below their real annual value.

For the complete status of these crown lands on May 1, 1894, about fifteen and one-half months subsequent to the dethronement of the monarchy, and which status was not very materially different from that at the time of the Queen's dethronement, reference is here made to Tables A to G, inclusive, being pages 41 to 83, inclusive, of the biennial report of the commissioner of crown lands, of date of May 1, 1894.

(See Appendix, Exhibit No. 6, pages 86-98.)

LILIUOKALANI CLAIMS THE REPRESENTATIVES OF THE UNITED STATES AIDED IN HER DETHRONEMENT.

As will be seen by a reference to the petition of the ex-Queen, it is very positively stated—

First. That on January 17, 1893, subjects of the Hawaiian Kingdom, of numerical insignificance, conspiring with and succored and assisted by aliens, renounced their allegiance to their sovereign, and revolted against the ordained, established, and constitutional Government of Hawaii, and, advised, counseled, comforted, abetted, aided, and assisted by the minister plenipotentiary of the United States, duly accredited to the Kingdom of Hawaii, who, in furtherance of the schemes and plans of those in rebellion against the organic and lawful authority of the Hawaiian Kingdom, and for the purpose of inspiring such authority with fear and terror, caused to be landed from the U. S. S. *Boston*, then in the harbor of Honolulu, a large force of armed marines and sailors, did subvert and overthrow the then existing and recognized constitutional Government of the Hawaiian Kingdom, and did depose me from the sovereign station as Queen thereof, and did establish a provisional government.

And further it is averred in said petition as follows:

Upon receiving incontestable and conclusive proof that the minister plenipotentiary of the United States had aided and abetted my rebellious subjects and the

aliens acting in concert with them, and that he had directed the armed forces of the United States to be landed and quartered in Honolulu to enable them to effectuate their conspiracy, I submitted to the superior force of the United States. This action on my part was prompted by my knowledge of the futility of a conflict with the United States; the desire to avoid violence, bloodshed, and the destruction of life and property; and the certainty which I felt that the United States, ever actuated by generous and chivalrous motives, Christian impulses, and a broad and enlightened sense of justice, would promptly repair the wrongs inflicted upon me in the premises.

Whatever of truth or falsity there may be in these averments of the ex-Queen is a question not to be determined by the *oral testimony of witnesses at this late day*, but must be determined by the historical record made at that time and since, and by the different investigations, executive and legislative, that followed, and all of which are now matters of official record and political history.

That there always have been, are to-day, and doubtless always will be differences of opinion among public men, deduced from, and based on the facts disclosed by the historical record and by these different executive and legislative investigations, and the action of the Government of the United States since, as to whether the American minister and the commander of the cruiser *Boston* exceeded their authority at this critical hour in the history of Hawaii, all must agree. That President Cleveland and his advisers, and his special commissioners, and many public men of the United States were of the opinion they did exceed their authority, substantially as claimed by the late Queen in her petition, is clear.

While in the distinguished Committee on Foreign Relations of the United States Senate, composed of Senator Morgan of Alabama, chairman, and Senators Butler of South Carolina, Turpie of Indiana, Daniel of Virginia, Gray of Delaware, Sherman of Ohio, Frye of Maine, Dolph of Oregon, and Davis of Minnesota, after a most searching investigation made in obedience to a resolution of the Senate instructing that committee to "inquire and report whether any, and if so, what irregularities have occurred in the diplomatic or other intercourse between the United States and Hawaii in relation to the recent political revolution in Hawaii," a diversity of conclusions was reached in the tripartite but very able report submitted by that committee to the Senate February 26, 1894.

Senator Morgan, chairman of the committee, held to the opinion that there was no unlawful act upon the part of either Minister Stevens or Captain Wiltze, except the one single act of Minister Stevens in hoisting the American flag on the government building in Honolulu, February 1, 1893, and in declaring a protectorate over the nation in the name of the United States. But this, it must be observed, was two weeks after the monarchy had been overthrown, and the provisional government had been established, and which act on the part of Minister Stevens was promptly repudiated by the Administration as without authority and void for want of power. While Senators Butler, Turpie, Daniel, and Gray declared that Captain Wiltze had not exceeded his authority in any respect, but that Minister Stevens had, and this minority in their views in referring to the report of Senator Morgan, said:

We especially dissent from that portion thereof which declares that the only substantial irregularity in the conduct of Minister Stevens, the late minister, was his declaration of a protectorate by the United States over Hawaii. * * * We can not concur, therefore, in so much of the foregoing report as exonerates the Minister of the United States, Mr. Stevens, from active, officious, and unbecoming participation in the events which led to the revolution in the Sandwich Islands on the 14th, 16th, and 17th of January, 1893. His own admissions in his official correspondence with this Government, his conduct for months preceding the revolution, as well as

the facts established by the evidence before the committee, clearly justify such a conclusion.

On the other hand we are not inclined to censure Captain Wiltse, commanding the United States warship *Boston*, or the officers of that vessel. Their position was one of extreme delicacy and difficulty and we appreciate their anxiety to afford protection to the lives and property of American citizens. The force of the United States marines of the *Boston*, with their ordinary arms, stationed at the American legation and at the consulate in Honolulu, would have effectually represented the authority and power of the United States Government, and would have afforded whatever protection American interests might have required, and at the same time would have avoided the appearance of coercion or duress either upon the people of Honolulu or the Queen in the controversy between them.

This is our opinion, after a careful examination of all the facts and circumstances disclosed in the evidence. * * * We can not, therefore, avoid the conviction that the inopportune zeal of Minister Stevens, in the project of annexation of the Sandwich Islands to the United States, caused him to exceed the proper limits of his official duty and of his diplomatic relations to the government and people of those islands. His conduct as the public representative of this Government was directly conducive to bringing about the condition of affairs which resulted in the overthrow of the queen, the organization of the provisional government, the landing of the United States troops, and the attempted scheme of annexation; and upon this conclusion his conduct is seriously reprehensible and deserving of public censure.

While Senators Sherman, Frye, Dolph, and Davis did not in their views accompanying the report discuss or decide the question as to whether Minister Stevens or Captain Wiltse exceeded their authority, except as their conclusions as to the regularity of their conduct may be inferred from the following statement contained in their views:

The question of the rightfulness of the revolution, of the lawfulness of the means by which the deposition and abdication of the Queen was affected, and the right of the provisional government to exist and to continue to exist was conclusively settled, as the report forcibly states, against the Queen and in favor of the provisional government, by the act of the administration of President Harrison, recognizing such provisional government, by the negotiation by that administration with such provisional government of a treaty of annexation to the United States; by accrediting diplomatic representation by such administration, and by the present administration to such provisional government. Therefore, it incontrovertibly follows that the President of the United States had no authority to attempt to reopen such determined questions, and to endeavor by any means whatever to overthrow the provisional government, or to restore the monarchy which it had displaced. (See Senate Report 227, 2d session 53d Congress, p. 34.)

On December 21, 1893, Representative McCreary, chairman of the Committee on Foreign Affairs of the House of Representatives, reported from that committee the following resolution, which was placed on the Calendar:

Whereas it has been the settled policy of the United States to concede to the people of foreign countries the same freedom and independence in the management of their domestic affairs that we have claimed for ourselves; and

Whereas it appears from Executive communications sent to the House of Representatives that the United States minister and the United States naval forces at Honolulu exceeded their authority in January, 1893, and illegally aided in overthrowing the constitutional Government of Hawaii and setting up in its place a provisional government, not republican in form, and in opposition to the will of a majority of the people of Hawaii: Therefore

Resolved, That it is the sense of this House that such intervention by the Government of the United States, its representatives, and armed forces was contrary to the policy and traditions of our Republic and the spirit of our Constitution and should be and is emphatically condemned.

On February 7, 1894, the House of Representatives passed the following resolution by the following vote: Yeas, 173; nays, 4; not voting, 174.

Resolved, First. That it is the sense of this House that the action of the United States minister in employing United States naval forces and illegally aiding in over-

throwing the constitutional Government of the Hawaiian Islands in January, 1893, and in setting up in its place a provincial government, not Republican in form and in opposition to the will of a majority of the people, was contrary to the traditions of our Republic and the spirit of our Constitution, and should be and is condemned.

Second. That we heartily approve the principle announced by the President of the United States that interference with the domestic affairs of an independent nation is contrary to the spirit of American institutions. And it is further the sense of the House that the annexation of the Hawaiian Islands to our country or the assumption of a protectorate over them by our Government is uncalled for and inexpedient, that the people of that country should have had absolute freedom and independence in pursuing their own line of policy, and that foreign intervention in the political affairs of the islands will not be regarded with indifference by the Government of the United States.

The following is the full vote on the passage of the above resolution (see Congressional Record, pp. 2001-2002, first session Fifty-first Congress):

Yeas, 173: Abbott, Alderson, Alexander, Allen, Arnold, Bailey, Baldwin, Bankhead, Barwig, Bell of Texas, Beltzhoover, Black of Georgia, Black of Illinois, Blanchard, Bland, Boatner, Bower of North Carolina, Branch, Brawley, Breckinridge of Arkansas, Breckinridge of Kentucky, Bretz, Brickner, Brookshire, Brown, Bryan, Bynum, Cabaniss, Cadmus, Campbell, Cannon of California, Caruth, Catchings, Causey, Clark of Missouri, Clarke of Alabama, Cobb of Alabama, Cobb of Missouri, Cockran, Cockrell, Compton, Conn, Coombs, Cooper of Florida, Cooper of Indiana, Cooper of Texas, Cornish, Covert, Cox, Crain, Crawford, Culberson, De Armond, De Forest, Denson, Dockery, Donovan, Dunn, Durborow, Edmunds, English, Enloe, Epes, Erdman, Everett, Fithian, Forman, Fyan, Geissenhainer, Goldzier, Goodnight, Gorman, Grady, Gresham, Griffin, Haines, Hall of Minnesota, Hall of Missouri, Hammond, Hare, Hatch, Hayes, Heard, Henderson of North Carolina, Holman, Hooker of Mississippi, Houk of Ohio, Hunter, Kribbs, Kyle, Lane, Lapham, Latimer, Lawson, Leyton, Lester, Lisle, Livingston, Lockwood, Lynch, Maddox, Maguire, Mallory, Marshall, Martin of Indiana, McAleer, McCreary of Kentucky, McCulloch, McDannold, McDearmon, McEttrick, McGann, McKaig, McLaurin, McMillin, McNagny, McRea, Meredith, Money, Montgomery, Moses, Mutchler, Neill, Oates, O'Neil, Outhwaite, Paschal, Patterson, Paynter, Pearson, Pendleton of Texas, Pendleton of West Virginia, Pigott, Price, Rayner, Reilly, Richards of Ohio, Richardson of Michigan, Richardson of Tennessee, Ritchie, Robbins, Robertson of Louisiana, Rusk, Russell of Georgia, Ryan, Sayers, Shell, Sibley, Snodgrass, Springer, Stallings, Stevens, Stockdale, Stone of Kentucky, Talbert of South Carolina, Talbott of Maryland, Tarsney, Tate, Taylor of Indiana, Terry, Tracey, Tucker, Turner, Turpin, Warner, Washington, Wells, Wheeler of Alabama, Williams of Illinois, Williams of Mississippi, Wilson of West Virginia, Wise, Wolverton.

Nays, 4: Adams of Kentucky, Adams of Pennsylvania, Cummings, Daniels.

Not voting, 174: Aitken, Aldrich, Apsley, Avery, Babcock, Baker of Kansas, Baker of New Hampshire, Barnes, Bartholdt, Bartlett, Belden, Bell of Colorado, Berry, Bingham, Blair, Boen, Boutelle, Bowers of California, Brattin, Broderick, Brosius, Bundy, Bunn, Burnes, Burrows, Caldwell, Caminetti, Cannon of Illinois, Capehart, Chickering, Chiles, Clancy, Coffeen, Cogswell, Cooper of Wisconsin, Cousins, Curtis of Kansas, Curtis of New York, Dalzell, Davey, Davis, Dingley, Dinsmore, Dolliver, Doolittle, Draper, Dunphy, Ellis of Kentucky, Ellis of Oregon, Fielder, Fletcher, Funk, Funston, Gardner, Gear, Geary, Gillet of New York, Gillett of Massachusetts, Graham, Grosvenor, Grout, Hager, Hainer, Harmer, Harris, Harter, Hartman, Haugen, Heiner, Henderson of Illinois, Henderson of Iowa, Hendrix, Hepburn, Hermann, Hicks, Hilborn, Hines, Hitt, Hooker of New York, Hopkins of Illinois, Hopkins of Pennsylvania, Houk of Tennessee, Hudson, Hulick, Hull, Hutcheson, Ikirt, Johnson of Indiana, Johnson of North Dakota, Johnson of Ohio, Jones, Joy, Kem, Kiefer, Kilgore, Lacey, Lefever, Linton, Loud, Loudenslager, Lucas, Magner, Mahon, Marshall, Marvin of New York, McCall, McCleary of Minnesota, McDowell, McKeighan, Meiklejohn, Mercer, Meyer, Milliken, Moon, Morgan, Morse, Murray, Newlands, Northway, Page, Payne, Pence, Perkins, Phillips, Pickler, Post, Powers, Randall, Ray, Reed, Reyburn, Robinson of Pennsylvania, Russell of Connecticut, Schermerhorn, Scranton, Settle, Shaw, Sherman, Sickles, Simpson, Sipe, Smith, Somers, Sperry, Stephenson, Stone, C. W., Stone, W. A., Storer, Strait, Strong, Swanson, Sweet, Tawney, Taylor of Tennessee, Thomas, Tyler, Updegraff, Van Voorhis of New York, Van Voorhis of Ohio, Wadsworth, Walker, Wanger, Waugh, Weadock, Weaver, Wheeler of Illinois, White, Whiting, Wilson of Ohio, Wilson of Washington, Woodard, Woomey, Wright of Massachusetts, Wright of Pennsylvania.

Pending consideration of the foregoing McCreary resolution, Representative Hitt offered the following as a substitute; which was rejected by a vote of 103 yeas in favor of the substitute to 159 against it:

HITT'S SUBSTITUTE.

Resolved, That it is the sense of this House that the demand caused by the President of the United States, by his imperative instructions, to be made on the 19th of December last upon the president and officers of the Hawaiian government, that it promptly relinquish all authority, and his proposed erection of a monarchy in its stead, was an unwarranted intervention in the affairs of a friendly recognized government, contrary to the law of nations, the policy and traditions of this Republic, and the spirit of the Constitution.

Resolved, That the provisional government of Hawaii having been duly recognized, the highest international interests require that it shall pursue its own line of policy; and foreign intervention in the political affairs of these islands will be regarded as an act unfriendly to the Government of the United States.

The following resolution was offered by Mr. Blair as a substitute to Mr. McCreary's resolution, but was rejected by a vote as follows: Yeas, 90; nays, 165.

BLAIR'S SUBSTITUTE.

Resolved, That the House of Representatives approves the recognition of the existing provisional government of the Hawaiian Islands by the last and present Administrations of this Government, and will view with satisfaction the maintenance of a policy which shall tend to consummate in the near future, with the consent of their people, the annexation of said islands to this country, or some other political arrangement which will fully preserve and promote the mutual interests of both Hawaii and the United States.

For Representative McCreary's report, submitted December 21, 1893, see House Report No. 243, second session Fifty-third Congress. For the views of the minority, submitted by Representative Storer, on behalf of himself and Representatives Hitt, Harmer, Blair, Draper, and Van Voorhis, see House Report No. 243, part 2, second session Fifty-third Congress.

However, whatever the facts may be, there can be no question that there is a firmly settled conviction in the minds of a great majority of the native Hawaiians that the deposition of the Queen and the overthrow of the monarchy were due mainly to aid given the then insurgents by the then representatives of the United States Government in Hawaii, and it is clearly evident to your committee that the existence of this feeling has done much to prevent that complete harmony among the people, and that thorough acquiescence in the new order of things so very desirable and, in fact, so very necessary to orderly procedure and good government in the new Territory.

FORMER OFFERS OF THE GOVERNMENT OF THE UNITED STATES AS INDUCEMENT TO ANNEXATION.

While what may have been done heretofore by way of liberal offers upon the part of the United States to the reigning sovereign of Hawaii, and to those next in succession to the throne, as inducements to secure the consent of that Government to a treaty of annexation may have little or no weight in determining the question now under consideration, your committee has thought it not improper to call attention to these different proffers. In 1854 a treaty for the annexation of the Hawaiian Islands was authorized by President Pierce and his Secre-

tary of State, Marcy. And in his letter of instructions to our then minister to Hawaii, Secretary Marcy among other things said:

[Mr. Marcy to Mr. Gregg. Department of State, Washington, April 4, 1854. Page 930.]

The information contained in your dispatch No. 10, dated the 7th of February, renders it highly probable that the ruling powers of that Government will have presented to you, as our diplomatic agent, an offer of the sovereignty of their country to the United States. The President has deemed it proper that you should be furnished with instructions for the guidance of your conduct in such an emergency.

No intimation has ever been given to this Government as to the terms or conditions which will be likely to be annexed to the tender of the sovereignty.

It is reasonable to anticipate that the present rulers and chiefs would expect that some provision would be made as compensation to them for the surrender of their political position. This provision could not be, as I conceive, any other than a pecuniary allowance. In this respect the United States would manifest toward them a liberal spirit. Annuities to the amount of \$100,000, to be distributed in such manner as they would prefer, might be secured to them in the treaty.

Acting under these instructions, Minister Gregg succeeded in making a treaty, but only by consenting for himself, the question to be referred for approval or disapproval to the Administration at Washington, to an increase of the amount of annuities to \$300,000, instead of \$100,000, as suggested by Secretary Marcy in his letter of instructions, *supra*.

On August 7, 1854, Minister Gregg wrote from Honolulu to Secretary Marcy as follows:

I have succeeded in arranging the terms of a treaty of annexation with the minister of foreign relations, one which meets with the approval of the crown prince and cabinet. * * *

Finding it impossible to provide otherwise, I finally consented to agree to the admission of the islands as a State.

There was also much controversy as to the extent of consideration. The Government absolutely refused to listen to anything short of annuities to the extent of \$300,000, and I finally listened to the sine qua non which they presented, with the understanding that it was solely ad referendum.

[Mr. Gregg to Mr. Marcy, Honolulu, September 5, 1854. Page 934.]

I forward also a copy of the treaty, the terms of which were finally settled between Mr. Wyllie and myself on the 19th ultimo. I have already informed you of the utter impossibility of such provisions as I desired in the second and eighth articles [the eighth article refers to annuities]. As they stand they will be regarded as ad referendum so far as the United States are concerned. This, of course, was the only ground upon which I could place my assent to them, especially the last.

The following is the eighth article of this proposed treaty:

ARTICLE VIII.

In consideration of the cession made by this treaty, and in compensation to all who may suffer or incur loss consequent thereon, the United States shall pay the aggregate sum of three hundred thousand dollars (\$300,000) as annuities to the King, the Queen, the Crown Prince, those standing next in succession to the throne, the chiefs, and all other persons whom the King may wish to compensate or reward, to be apportioned as may be determined by his Majesty the King and his privy council of State, which amounts to be apportioned as aforesaid shall be paid ratably without deduction or offset on any ground or in any shape whatever, to the parties severally named in such apportionment at Honolulu on the first day of July of each successive year so long as they may live. It is, however, expressly agreed upon that on the demise of his present majesty the annuity of the immediate heir to the throne shall then be increased to the same amount before allowed and paid to the King himself.

As a further consideration for the cessions herein made, and in order to place within the reach of the inhabitants of the Hawaiian Islands the means of education,

present and future, so as to enable them the more perfectly to enjoy and discharge the rights and duties consequent upon a change from monarchical to republican institutions, the United States agree to set apart and pay over for a term of ten years the sum of seventy-five thousand dollars per annum, one-third of which shall be applied to constitute the principal of a fund for the benefit of a college or university, or colleges or universities, as the case may be, and the balance for the support of common schools, to be invested, secured, or applied as may be determined by the legislative authority of the Hawaiian Islands, when admitted as a State into the Union, as aforesaid.

By this proposed treaty it will be observed the Government of the United States was to pay the aggregate sum of \$300,000 as annuities to the King, the Queen, and Crown Prince, those standing next in succession to the throne, this sum to be apportioned as might be determined by His Majesty the King and the privy council of state. Pending the consideration of this treaty the King Kamehameha III died, and the proposed treaty fell to the ground.

Minister Stevens, in a letter to Secretary of State Foster, during President Harrison's Administration, recommended the payment of an annuity to Queen Liliuokalani, following the principle enunciated in the treaty of 1854. In that letter, among other things, Minister Stevens, said:

"As to liquidation of all *political claims* of the *fallen queen* and the *crown princess*, may I be allowed to suggest that the spirit and import of the March treaty plan of 1854 had better be adopted, which authorized the expenditure of \$100,000 for like purposes. I therefore suggest that if a liquidation of this kind be now under consideration, and \$150,000 should be allowed as the total sum for this purpose, that \$70,000 should go to the fallen queen, Liliuokalani, \$70,000 to the crown princess, Kaiulani, and \$5,000 to each of the young princes. The last-named two princes are harmless young boys of little account, not chiefs by blood, but they were made princes by the late King Kalakaua without any constitutional right or power to do so, the then boys being nephews of his wife, Kapiolani. [It might not be improper to remark that one of these young princes is now Delegate-elect to Congress, from Hawaii.] Should the entire sum granted for this purpose be greater or less than \$150,000, I advise that the above-specified proportions be maintained."

From this letter, and from the treaty which followed, it is evident the Administration of President Harrison held to the view that "*the fallen queen*" and the "*crown princess*" had some "*political claims*" which the Government of the United States ought to liquidate; and further, that the proper amount to liquidate these "*political claims*" was \$150,000 in hand to the crown princess Kaiulani, and \$20,000 annually to the ex-Queen Liliuokalani during her natural life.

Again, the special commission of the Government of Hawaii in their letter to Secretary of State Foster of date February 4, 1893—this was eighteen days after the Queen's dethronement—submitting a general outline of the terms of a proposed treaty with the provisional government, made the following recommendations:

That appropriate financial provision be made for the support of ex-Queen Liliuokalani and the ex-heir presumptive Kaiulani as long as they shall in good faith submit to the authority and abide by the laws of the government established by virtue of this treaty.

Again, in the proposed treaty of annexation negotiated with this commission representing the provisional government of Hawaii in February, 1893, under President Harrison, Foster, Secretary of State, there was the following provision:

ARTICLE VI.

The Government of the United States agrees to pay to Liliuokalani, the late Queen, within one year from the date of the exchange of the ratification of this treaty, the sum of twenty thousand dollars (\$20,000.00), and annually thereafter a like sum of twenty thousand dollars during the term of her natural life, provided she in good

faith submits to the authority of the Government of the United States and the local government of the islands. And the Government of the United States further agreed to pay to the Princess Kaiulani, within one year from the date of exchange of the ratification of this treaty, the gross sum of one hundred and fifty thousand dollars (\$150,000), provided she in good faith submits to the authority of the Government of the United States and the local government of the islands.

This treaty was favorably reported by the Senate Committee on Foreign Relations February 17, 1893; it was withdrawn from the Senate by President Cleveland March 9, 1893; the Republic of Hawaii was organized, and after the failure of the treaty of annexation, annexation followed by joint resolution July 7, 1898. The Princess Kaiulani is now deceased.

It must be borne in mind that President Harrison, who transmitted this treaty to the Senate February 15, 1893, accompanied by a message earnestly urging its ratification, while giving his assent to Article VI, obligating our Government to pay the ex-Queen Liliuokalani \$20,000 per annum during the term of her natural life, and \$150,000 to the heir to the throne, Princess Kaiulani, did not give such assent on any assumption that the United States had, through any of its representatives, been in any manner instrumental in the dethronement of the Queen.

Upon the contrary, President Harrison, in his message transmitting that treaty to the Senate, said:

The treaty, it will be observed, does not attempt to deal in detail with the questions that grow out of the annexation of the Hawaiian Islands to the United States. The commissioners representing the Hawaiian Government have consented to leave to the future, and to the just and benevolent purposes of the United States, the adjustment of all such questions. * * * *The overthrow of the monarchy was not in any way promoted by this Government, but had its origin in what seems to have been a reactionary and revolutionary policy on the part of Queen Liliuokalani.*

Had this treaty, negotiated by the Harrison Administration in 1893, sent to the Senate February 15, 1893, and withdrawn by President Cleveland July 4, 1893, been ratified by the Senate, and exchange of ratifications had taken place any time prior to December 31, 1893, the United States would to the present have been compelled to pay the following amounts to the former Queen Liliuokalani and to the princess, with a further obligation to pay Liliuokalani \$20,000 per annum during her natural life:

To Princess Kaiulani	\$150,000
To ex-Queen Liliuokalani, at \$20,000 per annum, from December 31, 1893, to December 31, 1902, nine years	180,000
Total	330,000

In this connection, and mainly for the purpose of showing the sentiment of the late legislature of the Territory of Hawaii in regard to the claim of the late Queen Liliuokalani, your committee calls attention to the fact that in April, 1901, the Territorial legislature passed a bill through both houses, of which the following is a copy:

ACT 121. Making an appropriation to satisfy the claim and demands of Her Majesty Liliuokalani against the Republic of Hawaii and the Territory of Hawaii.

Be it enacted by the legislature of the Territory of Hawaii:

SECTION 1. That there is hereby appropriated, out of any money in the treasury of the Territory of Hawaii not otherwise appropriated, the sum of two hundred and fifty thousand dollars (\$250,000) in full payment and satisfaction of all claims and demands of Her Majesty Liliuokalani against the Republic of Hawaii or the Territory of Hawaii.

SEC. 2. That said sum shall be available and paid whenever Her Majesty Liliuokalani shall file with the treasurer of said Territory a written relinquishment of any and

all claim and demand she may have in and to the lands of said Territory commonly known as "crown lands," releasing the same to said Territory or unto the United States, and shall also file with said treasurer a receipt acknowledging satisfaction of any and all claims, demands, and right of action, either in law or equity, against the Territory of Hawaii and the United States as the Government succeeding that of the Republic of Hawaii.

Sec. 3. That this act shall take effect and be in force from and after the date of its approval by the United States Congress.

The foregoing bill passed the house April 26, 1901; ayes 18, noes 5, present and not voting 1, absent 6.

On April 30, 1901, this bill came up for consideration in the senate and passed by ayes 9, noes 6. The legislature adjourned the next day.

This bill came to the governor about the date of adjournment and resulted in a pocket veto.

This question as to making some provision for the late Liliuokalani has heretofore had consideration in the Senate. On March 1, 1900, during the consideration of the bill S. 222, second session of the Fifty-sixth Congress, to provide a government for the Territory of Hawaii, Senator Clark, of Wyoming, presented the following amendment to that bill:

And the sum of two hundred and fifty thousand dollars is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be paid Liliuokalani, late Queen of the Hawaiian Islands, for all rights claimed or interest she may have or claim to have in or to the said crown lands herein mentioned, the same to be paid by the Secretary of the Treasury upon the execution of proper deeds of relinquishment by said Liliuokalani: *And provided further*, That said sum of two hundred and fifty thousand dollars shall to that amount be a charge upon the revenues of said lands, and shall be repaid to the United States from the revenues of said lands in five equal annual payments.

After considerable debate (see Appendix A, p. 23) the amendment was laid on the table.

In the Fifty-sixth Congress, first session, on March 6, 1900, Senator Hoar submitted an amendment proposing to pay Liliuokalani, late Queen of the Hawaiian Islands, \$250,000, intended to be proposed by him to the diplomatic and consular appropriation bill, which amendment was referred to the Committee on Foreign Relations and ordered to be printed. On March 7, 1900, Senator Lodge, from the Committee on Foreign Relations, reported it back to the Senate with an amendment and moved that it be referred to the Committee on Appropriations and printed, which was agreed to. The amendment proposed by the Committee on Foreign Relations was as follows:

Striking out two hundred and fifty thousand dollars and inserting in lieu thereof twenty thousand dollars for the year ending December thirty-first, nineteen hundred, and annually thereafter the sum of ten thousand dollars during her natural life, the said sum to be in full satisfaction and extinguishment of any and all claims which she may have or pretend to have against the United States or the late Republic of Hawaii.

On March 10, 1900, pending the consideration of the diplomatic and consular appropriation bill, Senator Hoar offered the following amendment:

For the payment to Liliuokalani, late Queen of the Hawaiian Islands, upon the warrant of the Secretary of State, from any moneys not otherwise appropriated, the sum of twenty thousand dollars for the year ending December thirty-first, nineteen hundred, and annually thereafter the sum of ten thousand dollars during her natural life, the said sum to be in full satisfaction and extinguishment of any and all claims which she may have or may pretend to have against the United States or the late Republic of Hawaii.

faith submits to the authority of the Government of the United States and the local government of the islands. And the Government of the United States further agreed to pay to the Princess Kaiulani, within one year from the date of exchange of the ratification of this treaty, the gross sum of one hundred and fifty thousand dollars (\$150,000), provided she in good faith submits to the authority of the Government of the United States and the local government of the islands.

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WASHINGTON, D. C.
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over four years past, a part of the public domain of the United States, the claim on the part of the late Queen that these lands, or any part thereof, be returned to her can not be considered for a moment, and your committee recommends whatever provision is made for her be by a direct appropriation from the Treasury of the United States, and under no circumstances should any lien or trust whatever be imposed by Congress on these lands, all of which are open to homesteads.

Your committee, in conclusion, recommends, in view of all the circumstances, and as an act both of personal justice and national grace and wisdom, that the Senate consider with favor, on the lines indicated in this report, the claim of the late Queen Liliuokalani, now a loyal private citizen of the United States, and make such reasonable provision for her as the facts here presented may seem to justify.

What amount that should be your committee submits, on the facts here presented, to the superior composite judgment of the appropriate full committees of the Senate, and of that of the Senate itself.

[See Appendix for all testimony relating to the claim. Full copies hereto attached, marked "Exhibit A," p. 98.]

Petitions of Emma Alexandria Kilioulaniuiamamao Kalanikauikealani Defries and her husband, Henry Defries, Wilhelmine Doucsett, and affidavit of Mrs. Peke Stone, claiming certain interests in the Crown lands.

During the sessions of your committee four petitions other than that presented by Liliuokalani were presented to us for our consideration, of which the following are copies:

To the honorable Subcommittee of the United States Senate Committee on Pacific Islands and Porto Rico.

GENTLEMEN: The undersigned, Emma Alexandria Kilioulaniuiamamao Kalanikauikealani Defries, your petitioner, respectfully submits the following facts for your consideration and judgment, namely:

First. At the time of the overthrow of the Government of the Kingdom of Hawaii, the reigning Queen was enjoying the rents, issues, and profits of certain lands within the Kingdom called the "crown lands," and covering nearly 1,000,000 acres and yielding an income of \$20,000,000.

Second. The fee of said lands at the time of said overthrow was vested in the heirs of the Kamehamehas, to whom said lands originally belonged, and who set the same aside for their successors, who were to have simply a life interest in the same.

Third. Your petitioner prays that the Government of the United States may recognize the justice of the claim of Liliuokalani, our former Queen, and grant her suitable compensation for the loss which she sustained through said overthrow of her Government; and your petitioner further submits that the heirs to said "crown lands" should receive just compensation for the loss which they have sustained in the absolute ownership which the Government of the United States has established over said "crown lands."

Fourth. Your petitioner is a descendant and an heir of the Kamehamehas, as shown by the annexed printed statement of her pedigree, to which she refers, and which she makes a part of this petition.

Fifth. That your petitioner will suffer great loss and injury, as she has no remedy under the Constitution of the United States or the law of the land, if the Government of the United States fail or refuse to make suitable compensation to her for her interest in the said "Crown lands."

Wherefore your petitioner prays that some provision may be made for the payment to her, or her heirs or assigns, of such a sum of money as may be deemed just and equitable.

And your petitioner will ever pray, etc.

EMMA ALEXANDRIA KALANIKAUIKEALANEO DEFRIES,

Petitioner

Dated Honolulu, Territory of Hawaii, September 29, 1902.

TERRITORY OF HAWAII, *Island of Oahu, ss:*

Emma Alexandria Kilioulaninuiamamao Kalanikauikaalaneo Defries, being duly sworn, deposes and says that she has read the foregoing petition, and that it is true to the best of her knowledge and belief.

EMMA ALEXANDRIA KALANIKAUIKAALANEO
KILIOULANINUIAMAMAO DEFRIES.

Subscribed and sworn to before me this 30th day of September, 1902.

[SEAL.]

N. FERNANDEZ,
Notary Public, First Judicial Circuit, Territory of Hawaii.

The honorable subcommittee of the United States Senate Committee on Pacific Islands and Porto Rico.

GENTLEMEN: The undersigned, Henry de Fries, your petitioner, respectfully submits the following facts for your consideration and judgment, namely:

First. At the time of the overthrow of the Government of the Kingdom of Hawaii the reigning Queen was enjoying the rents, issues, and profits of certain lands within the Kingdom called the "Crown lands," and covering nearly 1,000,000 acres and yielding an income of \$20,000,000.

Second. The fee of said lands at the time of said overthrow was vested in the heirs of the Kamehamehas, to whom said lands originally belonged, and who set the same aside for their successors, who were to have simply a life interest in the same.

Third. Your petitioner prays that the Government of the United States may recognize the justice of the claim of Liliuokalani, our former Queen, and grant her suitable compensation for the loss which she sustained through said overthrow of her Government; and your petitioner further submits that the heirs to said "Crown lands" should receive just compensation for the loss which they have sustained in the absolute ownership which the Government of the United has established over said "Crown lands."

Fourth. Your petitioner is a descendant and an heir of the Kamehamehas, as shown by the annexed printed statement of her pedigree, to which she refers and which she makes a part of this petition.

Fifth. That your petitioner will suffer great loss and injury, as she has no remedy under the Constitution of the United States or the law of the land, if the Government of the United States fail or refuse to make suitable compensation to her for her interest in the said "Crown lands."

Wherefore your petitioner prays that some provision be made for the payment to her, or her heirs or assigns, of such a sum of money as may be deemed just and equitable.

And your petitioner will ever pray, etc.

HENRY DEFRIES, *Petitioner.*

HONOLULU, TERRITORY OF HAWAII, *September 29, 1902.*

The honorable subcommittee of the United States Senate Committee on Pacific Islands and Porto Rico.

GENTLEMEN: The undersigned, Wilhelmine Dowsett, one of the daughters of Kaumana Pilahiulani Widemann, your petitioner, respectfully submits the following facts for your consideration and judgment, namely:

First. At the time of the overthrow of the Government of the Kingdom of Hawaii, the reigning Queen was enjoying the rents, issues, and profits of certain lands within the Kingdom called the "Crown lands," and covering nearly 1,000,000 acres and yielding an income of \$20,000,000.

Second. The fee of said lands at the time of said overthrow was vested in the heirs of the Kamehamehas, to whom said lands originally belonged, and who set the same aside for their successors, who were to have simply a life interest in the same.

Third. Your petitioner prays that the Government of the United States may recognize the justice of the claim of Liliuokalani, our former Queen, and grant her suitable compensation for the loss which she has sustained through said overthrow of her Government, and your petitioner further submits that the heirs to said Crown lands should receive just compensation for the loss which they have sustained in the absolute ownership which the Government of the United States has established over said Crown lands.

Fourth. Your petitioner is a descendant and an heir of the Kamehamehas, as shown by the annexed printed statement of her pedigree, to which she refers, and which she makes a part of this petition.

Fifth. That your petitioner will suffer great loss and injury, as she has no remedy under the Constitution of the United States, if they fail or refuse to make suitable compensation to her for her interest in the said Crown lands.

Wherefore your petitioner prays that some provision may be made for the payment to her, or her heirs or assigns, of such a sum of money as may be deemed just and equitable.

And your petitioner will ever pray, etc.,

WILHELMINE DOWSETT, *Petitioner.*

HONOLULU, TERRITORY OF HAWAII, *September 29, 1902.*

TERRITORY OF HAWAII, *Island of Oahu, ss:*

Wilhelmine Dowsett, being duly sworn, deposes and says that she has read the foregoing petition, and that it is true to her knowledge and belief.

WILHELMINE DOWSETT.

Subscribed and sworn to before me this 30th day of September, 1902.

[SEAL.]

N. FERNANDEZ,

Notary Public, First Judicial Circuit, Territory of Hawaii.

In re title and pedigree of Mrs. Peke Stone and Mrs. Maria A. Boyd, deceased, to the so-called crown lands of the Territory of Hawaii, now held by the Government of the United States.

AFFIDAVIT.

TERRITORY OF HAWAII, *Island of Oahu, ss:*

On this 16th day of September, A. D. 1902, personally appeared before me Peke Stone, and, duly sworn, deposes and says, that she is entitled to a certain portion of the so-called crown lands, by reason of her relationship and connection by blood to Kamehameha III, or Kaiukeouli, one of the reigning sovereigns under the monarchy of the Hawaiian Islands. By tradition which is handed down from parents to children she proclaimed and swore that her father, Napunako, before expiring, told her and her sister, Maria A. Boyd, deceased, their pedigree and history of his birth, and solemnly made them promise that they will never divulge its contents unless they were slighted by the reigning sovereigns or some petty chief. He told them that if they wish to prolong their lives in this world they must be silent, for the lives of those connected with the Kamehamehas were continuously in danger if found out. He stated to them that he was the son of Maluleiioikalani, with Pupuka, her husband by ancient marriage (hooao). Maluleiioikalani was the daughter of Namahana (w) and Kekuamanoha (k), both brother and sister, a savage custom among the chiefs of those days. Namahana (w) and Kekuamanoha (k) were the children of Kekaulike and Haalou (w). Now, this same Kekaulike was the father of Kamehameha Nui, or Kamehameha the first, with Kekuiapoiwa (w). Kamehameha the first married (hooao) Keopuolani, and had issue Liholihi (Kamehaehma second) and Kaiukeouli (Kamehaehma third).

Through this pedigree, which is undisputed, and which was well known by the high chiefs in the past, she claims recognition in the so-called crown lands, formerly the private property of Kamehameha the third.

MRS. PEKE STONE.

Subscribed and sworn to before me this 16th day of September, A. D. 1902.

[SEAL.]

P. D. KELLETT, Jr.,

Notary Public, First Judicial Circuit, Territory of Hawaii.

For a genealogical record of these claimants, respectively, which clearly shows they are descendants of the royal family, see Appendix, pp. 59-65.

In view, however, of the conclusions reached by your committee in the matter of the claim of the late Queen Liliuokalani, which claim it will be observed is recognized as just by the above petitioners, to the effect that the title to the crown lands vested in the *sovereign*, and not

the *individual person*, and that the reigning sovereign simply had a *official life estate* in the proceeds of the crown lands, and on the death of the sovereign the title passed, not to the natural heirs of the monarch, but to his or her successors on the throne, in trust for himself or herself as sovereign, and his or her successors, your committee feel compelled to hold that neither the petitioners above named, nor any of them, ever had any interest whatever in the crown lands as heirs of a reigning monarch or monarchs.

Your committee therefore feel compelled to recommend that the prayer of these petitioners be disallowed.

JOHN H. MITCHELL,
JOSEPH R. BURTON,
ADDISON G. FOSTER,
JOSEPH C. S. BLACKBURN,
Subcommittee.

JUDGE JOHN W. KALUA.

CHARGES AGAINST JOHN W. KALUA, CIRCUIT JUDGE OF THE SECOND JUDICIAL CIRCUIT OF THE TERRITORY OF HAWAII, WHICH CIRCUIT INCLUDES THE ISLANDS OF MAUI, MOLOKAI, LANAI, AND KAHOO LAWE.

Hon. A. N. Kepoikai, a former judge of the circuit court in Hawaii, and James L. Coke, a practicing lawyer in the island of Maui, appeared before your committee and preferred in their testimony charges of incompetency and corruption against John W. Kalua, circuit judge of the second judicial circuit of Hawaii, which circuit includes the islands of Maui, Molokai, Lanai, and Kahoolawe. Their testimony follows:

A. N. KEPOIKAI, SWORN.

(Witness, after being sworn, stated his name as above, gave his residence as Wailuku, island of Maui, and occupation, attorney at law; that he is a native Hawaiian, 42 years of age next December; that he is at present a notary public and member of the fire claims commission; that he had held the position of circuit judge of the second judicial circuit, consisting of the islands of Maui, Molokai, Lanai, and Kahoolawe, for eight years from May, 1886; and after being interrogated on various other subjects, testified as follows:)

Senator MITCHELL. Well, is there anything else, Judge, that you wish to state in regard to the condition of the islands here that should be brought to the attention of the committee?

Mr. KEPOIKAI. As a practicing attorney, and as Colonel Parker is here with me now, we spoke about this to President McKinley after the convention in Philadelphia. The President asked the Colonel here about the appointment of judges. I mean Colonel Parker. The Colonel says he made a bad appointment by appointing Judge Kalua, and the Colonel will bear me out with the intimacy that the Colonel bears with the President. As a practicing attorney before his court in matters of probate and equity, I think there is hardly a probate matter that is brought up before Judge Kalua that he was either on one side or the other, makes it inconvenient to practice before him.

Senator MITCHELL. You are speaking of your present judge in this district?

Mr. KEPOIKAI. Yes, sir.

Senator MITCHELL. How long has he been serving?

Mr. KEPOIKAI. Since June, 1900.

Senator MITCHELL. Do you mean to tell the committee that he is corrupt?

Mr. KEPOIKAI. I think, in plain language, that he is. We have had a case, and it came to my office, and I happened to be at the legislature in 1898. It went from my office into Hons & Coke, about a man that he defaulted and there was a complaint made before him; it has to be made before him as the presiding justice, and that case is a matter of record now, where he has embezzled the client's money; and knowing all these facts together, and happening to be away, this man went to Mr. Coke's office—and I believe the papers are on file now in his court—where he went to work and settled the suit. This was prior to his appointment, and if I remember correctly the complaint reached the President after the nominations went to the Senate.

Senator MITCHELL. On whose recommendation was he appointed, do you know?

Mr. KEPOIKAI. Well, I understood from the President, I think their names were mentioned, Cecil Brown happened to be there in Washington about that time—W. O. Smith, both were there at that time. It may have come through the governor here.

Senator MITCHELL. He is a native?

Mr. KEPOIKAI. He is Hawaiian born—born on the island of Molokai.

JAMES L. COKE, sworn.

Mr. Coke, being first duly sworn, stated he was a practicing attorney, 27 years of age, and had been a resident of Wailuku, island of Maui; after being examined on other subjects, testified as follows:

Senator MITCHELL. Any other subject that you wish to bring to our attention?

Mr. COKE. Well, I should like to add to the same sentiment expressed by Judge Kepoikai here in relation to the absolute unfitness of the circuit judge which we have here in the island of Maui; that is, Judge John W. Kalua, judge of the circuit court of the second judicial circuit, Territory of Hawaii.

Senator MITCHELL. He resides in the islands?

Mr. COKE. He was born and raised in these islands; he was born on the island of Molokai, and has been about twenty years in the island of Maui.

Senator MITCHELL. What have you to say as to his capacity as judge?

Mr. COKE. I wish to say that so far as his knowledge of the law is concerned that he has a very elementary legal education; I do not consider him a lawyer; do not think that his knowledge entitles him to that position.

Senator MITCHELL. How much business is there done before his court?

Mr. COKE. A great deal of business transacted, and I wish to say that it is an important thing for the people of this island, I think, to get a clean judiciary, for the reason that where matters of importance come up—where a question of habeas corpus or some proceeding of that kind—we are not near enough to Honolulu to apply to the supreme court, we must rely solely upon the circuit judge of this island, and therefore it sometimes becomes important that he should be an honest man.

Senator MITCHELL. Do you consider him a man of integrity?

Mr. COKE. I do not. I know of instances, I could repeat them here to the commission for an hour, if necessary. I will add to the remarks of my colleague, Judge Kepoikai, that I brought a suit against him, filed a complaint in his own court charging him with embezzlement of funds of an old Hawaiian, some several hundred dollars, and that complaint is on record and has not been denied by him, but after the complaint was filed he came up here and settled the case.

Senator MITCHELL. That is to say, after he was appointed judge you brought suit in his court charging him (the judge) with this embezzlement prior to the time he became judge.

Mr. COKE. Yes. The suit was not brought prior to his being appointed judge by the President of the United States, but it was while he was acting as Territorial judge of this district.

Senator MITCHELL. What became of the suit?

Mr. COKE. The suit was settled; he paid the money.

Senator MITCHELL. What amount was claimed?

Mr. COKE. Some two hundred dollars.

Senator MITCHELL. Money that he had collected for a client?

Mr. COKE. Money that he had collected from Mr. Castle for a client, yes, sir; and had refused to pay over to him, although repeatedly demanded to do so. There is one other case, especially, I wish to bring to the commission's attention, and that is after he was appointed United States circuit judge by the President of the United States, there was a man by the name of Kaula was arrested in Wailuku, charged with assault with a deadly weapon, assaulting his wife and her mother; they were assaulted, these two persons, with an ax, and the facts were that he did assault them and cut them all to pieces, and they were in the hospital for quite a while afterwards recovering from this assault. I was asked by one of the relatives to go to the jail—

Senator MITCHELL. Whose relatives?

Mr. COKE. One of the defendant's relatives; he was arrested and placed in jail awaiting trial, and I was requested to go and interview him in regard to mapping out his defense, and I went to the jail and saw the defendant. He was in the prison yard, and he stated to me that Judge Kalua had already been to see him and had told him that he would furnish bail for him, and later would help him when his case came on for trial before the circuit judge; that he was to waive examination by the district magistrate and come up before him and plead guilty, and that he would let him off with a light fine. The man did just as he stated he had been instructed by Judge Kalua to do; at the trial held here in Wailuku, he plead guilty and was fined \$75; the two charges he was fined \$75 each, or \$150; at that time, or it was about the time that he was fined, Kaula, the defendant, executed a deed to Judge Kalua's wife of his property in Wailuku, and I have these deeds on record in my office.

Senator MITCHELL. What was the maximum penalty that could have been imposed?

Mr. COKE. I think it is five years' imprisonment—either two or five years; this was an aggravated case, one of the worst I have ever seen.

Senator MITCHELL. What was the value of the property transferred to the judge's wife?

Mr. COKE. Judge Kalua told me that the same property, not so very long ago, when I wanted to buy it, he told me he was willing to take \$250 for the property.

Senator MITCHELL. Do you know what claim he ever made, if any; how he came to get the property for his wife?

Mr. COKE. He made no claim at all, only that this had been deeded to his wife—no explanation.

Senator MITCHELL. Anything else?

Mr. COKE. There is another defendant by the name of Coelho, who was charged with larceny of hogs. I defended him in court, and he was acquitted on a technicality. He was later on arrested again in which I did not defend him. I had nothing to do with the second case. He made to me practically the same statement that this Kaula made. He told me that Judge Kalua had told him that he intended to help him when his case came on for trial. He came up, plead guilty, and was fined \$25.

Senator MITCHELL. That was a case of larceny?

Mr. COKE. Larceny of hogs.

Senator MITCHELL. Grand larceny?

Mr. COKE. Larceny in the second degree; property under the value of \$100 is considered larceny in the second degree. At the same time there was a southern negro brought up for stealing some seven or eight hundred dollars out of a store, and this negro was sentenced to imprisonment for life for his offense, and he is now serving his term in the Oahu prison; I do not consider there is any justice.

Senator BURTON. Can you impose a sentence of life imprisonment for burglary under the existing law of this Territory?

Mr. COKE. Yes, sir; and this man was sentenced to imprisonment for life. That is the law of this country to-day. Judge Gear here will verify it.

Senator MITCHELL. Are there many such cases?

Mr. COKE. There are a great many cases of malfeasance in office which I could cite, all chargeable to Judge Kalua, and which would convince any fair-minded man that he is not a fit man to be circuit judge.

Senator MITCHELL. Is there many cases where they have been sentenced for life?

Mr. COKE. Never before that I know of.

Senator BURTON. Can you send a man to the penitentiary for life for embezzling government funds?

Mr. COKE. I can not say, but I know that the law permits a sentence for life for burglary.

(Witness here testified on other subjects.)

Senator MITCHELL. Anything else?

Mr. COKE. The matter of the charges that my colleague, Judge Kepoikai, has preferred against the judge of the circuit court, I will say, if the commission wants to, we will supplement these oral charges with written charges; it is high time that some change was made.

Senator MITCHELL. We will be very glad, Mr. Coke, if you will furnish us with such charges as you may think proper to be made against this judge in writing.

Mr. COKE. We will.

Subsequently these gentlemen, in connection with G. B. Robertson, preferred written charges against Judge Kalua in the form of a petition, of which the following is a copy, the same being duly sworn to.

WAILUKU, MAUI, TERRITORY OF HAWAII, September 18, 1902.

JOHN H. MITCHELL,

Chairman Subcommittee of the Senate Committee on Pacific Islands, etc.

SIR: In support of certain oral testimony given before your honorable commission in that behalf, we, the undersigned, attorneys of the supreme court of this Territory and residents of the island of Maui, Territory of Hawaii, complain of John W. Kalua, circuit judge of the second judicial circuit of the said Territory, which said circuit includes the islands of Maui, Molokai, Lanai, and Kahoolawe, and for cause of complaint against said judge charge and allege as follows:

I. That the said John W. Kalua was on or about the 1st day of June, 1900, appointed judge of the second circuit court of the Territory of Hawaii by the Presi-

dent, and ever since said date has been and now is the duly appointed, qualified, and acting judge thereof.

II. That the said John W. Kalua, while occupying the office of judge, and in his capacity as such, has been guilty of gross malfeasance in office, and has committed divers unscrupulous, dishonest, and improper acts, among which may be cited the following:

(a) That one N. B. Kaula was committed by the district magistrate of the district of Wailuku, Maui, to appear before the circuit court, second circuit, at the December (1900) term thereof, upon a charge of assault with a weapon eminently and obviously dangerous to life, to wit, an axe, upon the person of his wife, Mrs. Kaula; and that while occupying the office of judge and knowing that the said Kaula would be brought before his court for trial, the said John W. Kalua visited the said N. B. Kaula while confined in the public prison at Wailuku awaiting trial at the convening of the said circuit court, and there held a private interview and conversation with the said Kaula in the prison yard; and your complainants are informed and believe, and therefore allege, that the said John W. Kalua did at that time wantonly and corruptly promise and agree to and with the said Kaula that if he, the said Kaula, would plead guilty of said charge before the said circuit court, that he, the said John W. Kalua as judge aforesaid would mitigate and lessen the sentence which might otherwise be imposed against him; that thereafter and to wit, on the 11th day of December, 1900, the said Kalua was arraigned for trial on said charge before the said John W. Kalua as judge aforesaid; that the said Kaula did then plead guilty of said charge and was by said judge fined the nominal sum of seventy-five dollars (\$75); and that for the services thus rendered him by the said John W. Kalua, the said Kaula did three days later, to wit, on the 14th day of December, 1900, make, execute, and deliver unto Polly Kalua, wife of the said John W. Kalua, a deed to certain real property owned by the said Kalua in Wailuku, of the probable value of two hundred dollars, a translated copy of said deed being attached hereto, marked "Exhibit A," and made a part hereof.

(b) That one Manuel Coelho was committed by the district magistrate of Makawao, Maui, to appear before said circuit court upon a charge of larceny in the second degree, and your petitioners and complainants are informed and believe, and therefore allege, that the said Manuel Coelho, while awaiting the convening of the said circuit court before which his trial was to be had, to wit, the June, 1901, term of said court, did approach the said John W. Kalua and did then and there enter into a private agreement with him concerning the disposal of said charge, and that the said John W. Kalua did then and there, and while acting as judge as aforesaid, corruptly and in wanton disregard of his oath of office, promise and agree to and with the said Manuel Coelho that should the said Coelho be convicted before the said circuit court, that he, the said judge, would in passing sentence reduce the same to a nominal punishment; that in pursuance of this preconcerted arrangement the said Manuel Coelho did on the 17th day of June, 1901, come before the said John W. Kalua as judge aforesaid and plead guilty of said charge and was then by the said judge fined therefor the nominal sum of twenty-five (\$25) dollars.

(c) That in order to dispel any possible conclusion that the foregoing ridiculously small fines might have been actuated by the natural leniency of the said judge, we further allege that at the said June, 1901, term of said circuit court (and being the same term at which the said Coelho was fined) one Fred Wood, a negro from the State of Florida, was arraigned thereon and plead guilty to a charge of burglary, wherein the said Wood had entered a store in the nighttime and stolen therefrom about \$900, but without any apparent intention or desire to do bodily harm to anyone, and this crime being defendant's first breach of the law of this country, *the said Wood was upon said plea by the said John W. Kalua, as judge aforesaid, sentenced to imprisonment at hard labor for the term of his natural life.*

(d) That the said John W. Kalua, while occupying said office of judge, has frequently come upon the bench under the influence of liquor and so intoxicated as to be utterly unfit to perform the functions of his said office. That during the June, 1901, term of said court and also during the June, 1902, term thereof the said John W. Kalua, while presiding over said court, was often so stupefied by the use of intoxicants as to be entirely ignorant of much of the proceedings had before him. That on the 24th day of October, 1901, the said John W. Kalua, as judge aforesaid, held court for the purpose of passing upon certain matters coming before his court, and at that time he was drunk and an utter disgrace to the honorable office he occupies. The foregoing affidavit is supported by the affidavit of W. F. Pogue, which is attached hereto, marked "Exhibit B," and made a part hereof.

(e) That the said John W. Kalua is neither qualified nor competent to hold the office of judge of a court of record; that his decisions are usually prepared by some third person, and his instructions are in nearly all cases drawn up and prepared in

toto by some inferior court official; and even in cases where the said judge has no reason to be otherwise than fair his knowledge of law is so deficient as to woefully jeopardize the rights of litigants.

(f) That as a reflex of the general opinion of Judge Kalua held by the intelligent people of this island we beg to submit herewith a copy of the Maui News, dated December 21, 1901, and containing an article dealing with Judge Kalua, which said paper is marked "Exhibit C," attached hereto and made a part hereof.

(g) And as a further evidence of the culpability of the said John W. Kalua, we beg to submit herewith a copy of a sworn complaint now on record in the office of the clerk of the circuit court, filed against the said John W. Kalua, while he was occupying the position of circuit judge of this second circuit under the laws of the Republic of Hawaii, and which said complaint remains to this day on record, wholly undenied. Said complaint is marked "Exhibit D," attached hereto and made a part hereof.

Without the least malice towards Judge Kalua, and regretting beyond measure that it has become necessary for us to prefer these charges against one with whom we are necessarily associated, yet we feel that the limit of forbearance has been reached and that it has become our duty to the people of this judicial circuit to ask your honorable commission, upon your return to Washington, to place these charges before the President and recommend the immediate removal of Judge Kalua from the office which he has too long disgraced.

Very respectfully,

JAMES L. COKE.
A. N. KEPOKAI.
G. B. ROBERTSON.

TERRITORY OF HAWAII, *Island of Maui, ss:*

I, James L. Coke, being first duly sworn, say that I am one of the parties who signed the foregoing complaint and petition; that I know the contents of said complaint and petition and that the same are true of my own knowledge, except as to those matters and things which are alleged upon information and belief, and as to those matters I believe them to be true.

JAMES L. COKE.

Subscribed and sworn to before me this 19th day of September, 1902.

[SEAL]

JAS. N. K. KEOLA,
Notary Public, Second Judicial Circuit, Territory of Hawaii.

EXHIBIT A.

Know all men by these presents:

That I, N. B. Kalua (k), of Wailuku, Maui, Territory of Hawaii, in consideration of the sum of one hundred dollars to me paid by Polly Kalua, wife of Hon. J. W. Kalua, of said Wailuku, the receipt whereof is hereby acknowledged, have bargained, sold, and released unto the said Polly Kalua, her heirs and assigns, all my rights and title in law and equity in all that parcel of land situate at Kalua, Wailuku, Maui, aforesaid, and described in L. C. A. 2420, and containing 65/100 acres, being the same land conveyed by Laea (w), my wife, who died intestate, by deed recorded in the office of the registrar of conveyances at Honolulu, island of Oahu, Territory of Hawaii, aforesaid, in liber 109, pages 95-96.

To have and to hold the said premises with all and singular the appurtenances thereunto belonging and everything on said land unto the said Polly Kalua and her heirs and assigns forever.

And I, for myself, my heirs, executors, and administrators, do hereby covenant unto the said Polly Kalua that I am lawfully seized in the premises hereby conveyed; that the said premises are free and clear from all incumbrances; that I have good right to convey the same; and that I, my executors and administrators will warrant and defend the title to the said premises against the lawful claims and demands of all persons whomsoever.

And I, Haliakamoaikeahi (w), wife of said N. B. Kaula (k), for the consideration aforesaid, do hereby grant, convey, and release all my title and interest as said wife in the above premises unto the said Polly Kalua and her heirs and assigns forever.

In witness whereof the said N. B. Kaula and Haliaka Moaikeahi, his wife, have heretunto set our hands and seals this 14th day of December, A. D. 1900, at said Wailuku.

N. B. KAULA.
H. MOAIKEAHI.

In the presence of—
JAS. N. K. KEOLA.

TERRITORY OF HAWAII, *Island of Maui*, ss:

On this 14th day of December, 1900, personally appeared B. N. Kaula (k.) and Haliaka Moaikeahi (w.), his wife, to me known, and known to me to be the persons described in and who executed the foregoing instrument, who severally acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein set forth. And the said Haliaka Moaikeahi (w.), on an examination by me separate and apart from her said husband, acknowledged that she had executed the same freely, without fear or compulsion of her said husband.

[SEAL.]

JAS. N. K. KEOLA,
Notary Public, Second Judicial Circuit.

[Indorsement.]

Declaration of deed, dated December 14th, A. D. 1900. B. N. Kaula to Polly Kalua. Recorded, lib. 217; page 361,

EXHIBIT B.

*Affidavit of W. F. Pogue.*TERRITORY OF HAWAII,
Island of Maui, ss:

I, W. F. Pogue, of Nahiku, island of Maui, Territory of Hawaii, being first duly sworn, depose and say that during the month of October, A. D. 1901, I was manager of the Kihei Plantation Company, a corporation doing business at Kihei, Maui; that on the 24th day of October, 1901, I attended the sitting of the second circuit court, Territory of Hawaii, at Wailuku, Maui, at which John W. Kalua, judge of said court presided for the purpose of passing upon certain motions on file in the actions of the Hawaiian Commercial and Sugar Company and the Kihei Plantation Company against Kawaipinaka; that at that time the said John W. Kalua came upon the bench intoxicated and so under the influence of liquor as to be entirely unfit to intelligently perform the functions of the said office, and that his demeanor at the time was insulting and disgraceful.

W. F. POGUE.

Subscribed and sworn to before me this 8th day of February, A. D. 1902.

[SEAL.]

N. E. LEMMON, Notary Public.

In the circuit court of the second circuit, H. I., June Term, 1900.

S. Kahale, plaintiff, vs. J. W. Kalua, defendant. Action at law to recover money.

PLAINTIFF'S COMPLAINT.

To the Honorable J. W. Kalua, Judge of the Circuit Court of the Second Circuit, Hawaiian Islands.

The undersigned, S. Kahale, the plaintiff above named, complains of J. W. Kalua, the above-named defendant, and for cause of action alleges:

That both plaintiff and defendant are Hawaiians by birth and are residents of Wailuku, Maui.

That on or about the 1st day of January, 1889, the said defendant, while acting as the agent and attorney of plaintiff, did represent to plaintiff that he, defendant, could secure for plaintiff the loan of one hundred and fifty dollars from one W. R. Castle, then of Honolulu, H. I., upon plaintiff's delivering to said Castle an indenture of mortgage upon certain premises in Wailuku aforesaid, then owned by plaintiff, to secure the payment of said loan.

That thereafter and on or about the 17th day of January, 1889, plaintiff did make and execute the mortgage aforesaid, a certain Nellie M. Lowery being the mortgagee therein named, and plaintiff did at said time deliver the said mortgage to defendant as plaintiff's attorney aforesaid, to be delivered by defendant to said W. R. Castle, the agent of said mortgagee.

That thereafter and on or about the 25th day of January, 1889, defendant did deliver to said Castle the mortgage aforesaid, and defendant did then and there receive from said Castle the sum of \$150, the same being the consideration money for said mortgage.

That in receiving the money aforesaid, defendant was acting as the agent, employee, bailee, and trustee of an express trust of the said plaintiff.

That plaintiff after said date often requested said money of defendant, but defendant always represented to plaintiff that he, defendant, had not yet received said money from said cattle; but plaintiff alleges and says that said representations were and are false and fraudulent, and were made for the purpose of cheating and defrauding this plaintiff out of his property.

That plaintiff has never received said \$150 or any part thereof, although said mortgage was enforced against plaintiff, and that his property has been sold to pay the same.

And plaintiff further says and alleges that defendant, after having received said money from said Castle, the exact date being unknown to plaintiff, did purloin, embezzle, and corruptly take and convert to his, defendant's, own use the said \$150, the property of this plaintiff.

That the said \$150 with interest is still due, owing, and payable from defendant to plaintiff.

Wherefore plaintiff prays the process of this court to cite the said defendant to appear and answer this complaint before a jury of the country at the June, 1900, term of this court, unless sooner disposed of by judicial authority, and that plaintiff may have judgment against defendant for the sum of one hundred and fifty (\$150) dollars, together with interest thereon, and for his costs in this proceeding.

S. KAHALE, *Plaintiff*.

HONS & COKE & RICHARDSON,
Attorneys for Plaintiff.

HAWAIIAN ISLANDS,
Island of Maui, ss:

I, S. Kahale, being first duly sworn, depose and say that I am the plaintiff above named; that I know the contents of the foregoing complaint and that the same are true.

S. KAHALE.

Subscribed and sworn to before me this 12th day of March, 1900.

[NOTARIAL SEAL.]

GEO. HONS, *Notary Public.*

[Indorsement.]

In the circuit court, II circuit, Hawaiian Islands, S. Kahale vs. J. W. Kalua. Action at law to recover money. Filed March 12, 1900. Signed, J. N. K. Keola, Clerk.

At the conclusion of the testimony hereinbefore referred to, which was taken on board a steamer on our way from Honolulu to Hilo, your committee, through its chairman, addressed a letter to Judge Kalua, advising him of the charges made against his integrity, and suggesting that the Commission would be in session in Honolulu the following week, where he could be heard in response if he desired.

The following is a copy of the letter above referred to:

LETTER.

HILO, HAWAII, September 18, 1902.

HON. JOHN W. KALUA,
Wailuku, Maui.

MY DEAR JUDGE: In the taking of testimony by the Senate committee now visiting the islands under direction of United States Senate, certain serious charges were made against you by two witnesses, namely A. N. Kepoikai and James L. Coke. The committee has deemed it but right that you should be advised of these charges and that you have an opportunity to be heard before the committee if you desire.

We are unable at this moment to extend the charges, but beg to say the committee will be in Honolulu from Monday until Saturday noon next, at which time and place we will be glad to hear from you if you desire to make any answer to the charges made. Should you visit Honolulu you will be furnished with a complete copy of the testimony of the two gentlemen named.

Very respectfully,

JOHN H. MITCHELL, *Chairman.*

To this communication the only response made by Judge Kalua was a letter addressed to the chairman of our committee, of which the following is a copy:

JUDICIARY DEPARTMENT,
CIRCUIT COURT, SECOND CIRCUIT, HAWAII,
Wailuku, Maui, Hawaii, September 27, 1902.

HON. JOHN H. MITCHELL,
Chairman U. S. Senate Committee on Pacific Islands, etc.,
Honolulu, Oahu.

DEAR SIR: I beg to acknowledge the receipt of your esteemed favor dated Hilo, September 18, 1902, but I regret to say that it only reached me yesterday (Friday, September 26) morning. The envelope bore the stamp mark of Hilo post-office, September 19, 1902, at 11.30 a. m., and Wailuku post-office, September 25, 1902, 8 p. m. So you see the letter was posted in Hilo post-office after the steamer *Claudia*'s departure for Honolulu, and only got here by last Thursday's Maunaloa.

In consequence of the late arrival of your letter advising me of the serious charges made against me by Messrs. A. N. Kepoikai and James L. Coke, who appeared before your committee, I can not come down in person. However, with the kind permission of your committee, I would request that you send me a copy of the charges preferred against me and I will furnish you later, as soon as practicable, my said charges.

Very respectfully, yours,

JOHN W. KALUA,
Judge Circuit Court, Second Circuit, Territory of Hawaii.

Responding to this request on September 29, 1902, this committee forwarded to Judge Kalua by mail from Honolulu to his address at Wailuku, Maui, a copy of the charges hereinbefore set out, including the testimony of Judge A. N. Kepoikai and James L. Coke, under cover of a letter from the chairman of this committee, of which the following is a copy:

HONOLULU, HAWAII, September 29, 1902.

HON. JOHN W. KALUA,
Circuit Judge, Second Circuit, Territory of Hawaii,
Wailuku, Maui, Hawaii.

MY DEAR SIR: Responding to yours of September 27, I beg to hand you herewith a copy of the charges preferred against you.

Any communication you may wish to make, direct same to "John H. Mitchell, United States Senator, chairman subcommittee of the Committee on Pacific Islands and Porto Rico, Portland, Oreg.

Very respectfully,

JOHN H. MITCHELL, Chairman.

Neither to this communication, nor to the charges against him, has Judge Kalua—up to the present date, December 1, 1902—made any response whatever to this committee or any of its members.

Subsequently, on September 4, 1902, at Honolulu, the following testimony was given before your committee by George A. Davis, a practicing lawyer in Hawaii, residing at Honolulu:

WEDNESDAY MORNING, September 24, 1902.

GEORGE A. DAVIS, sworn.

MR. DAVIS. I reside in Honolulu; 44 years of age; occupation, counselor at law.

Senator MITCHELL. How long have you lived here in Honolulu?

MR. DAVIS. Between seven and eight years.

Senator MITCHELL. Where were you born?

MR. DAVIS. Born in the city of Boston, State of Massachusetts.

Senator MITCHELL. An American citizen?

MR. DAVIS. I am.

Senator MITCHELL. You may make any statement, Judge, that you desire to bring before the committee.

Mr. DAVIS. Last June I was commissioned and went to Maui, the third circuit, as deputy attorney-general. That is the circuit over which John W. Kalua presides. When I got there I found that he could not administer the oath to the grand jury. I had to make up the oath for him and administer it. Then he came to the charge to the grand jury. He had no charge prepared, and could not prepare one. He wanted me to prepare his charge for the grand jury, which I did.

Senator MITCHELL. Did he request you to do it?

Mr. DAVIS. Yes. Then, upon the trials that took place before him, the man was utterly incompetent. I had to make up two or three charges to the juries. I found the man was utterly incompetent to perform the duties of the office, and besides that I was satisfied from my investigations while there that he was corrupt. I wish to make this statement, because I consider that the continuance of a man of that kind in the judicial office, where life and property is involved, is a serious menace to the Territory and to good government, and is a reflection upon the appointing power. It has been well known to the government here that this man was incompetent and has been incompetent.

Senator MITCHELL. When was he appointed judge?

Mr. DAVIS. He was appointed before annexation, and he was continued in office afterwards. He was appointed by the authorities of the republic of Hawaii. That is a fact, that man could not administer the oath to the grand jury. I had to make up the oath.

Senator MITCHELL. About his appointment—who appointed him first?

Mr. DAVIS. Appointed by President Dole and his cabinet.

Senator MITCHELL. Later, by whom?

Mr. DAVIS. And later was continued in office by the recommendation of somebody. I could not find out who it was that recommended him.

Senator MITCHELL. Appointed by President McKinley?

Mr. DAVIS. Appointed by President McKinley.

Senator MITCHELL. Do you know when his commission expires?

Mr. DAVIS. I don't know. I think two years from now, Senator Mitchell.

Senator MITCHELL. What about his personal habits?

Mr. DAVIS. I have nothing to say about a man's habits. I don't care what his habits are. He is incompetent and corrupt.

Senator MITCHELL. If he is incompetent and corrupt, either is sufficient, but if he is also a man of bad habits that would have its bearing.

Mr. DAVIS. I wish to state, if you will pardon me, I don't want to go into a man's habits.

W. O. SMITH, president of the Honolulu bar association and former attorney-general, being recalled, said:

Mr. SMITH. I wish to speak for Judge Kalua, who has not been heard at all.

Senator MITCHELL. I desire to state—the chair will state, that after the testimony had been taken on board the boat on our way to Hawaii, and testimony had been adduced reflecting upon this judge, I immediately, as soon as we arrived at Hilo, addressed a letter to the judge, advising him of the fact and stating to him that we would be in session all this week, at least up to Thursday, and that he could have an oppor-

tunity to come before us and he would be furnished with a copy of the complaint.

Mr. SMITH. There has been no opportunity for him to come yet—not until Friday.

Senator MITCHELL. I simply wish to state that we notified him.

Mr. SMITH. I wish to say briefly this: Judge Kalua is one of the educated and bright native Hawaiians; a graduate of their highest school. He is a Hawaiian, and, as Hawaiian lawyers go, ranks high as a lawyer. He was circuit judge on Maui under the republic. I was one of those who recommended him to President McKinley that he should be appointed. It was urged, mainly then by those who were opposed to his appointment, that he had not sufficient knowledge of law, but we thought that he had performed the duties for a year or two very acceptably—very few opinions had been overruled—and I felt very strongly that he was performing the duties reasonably well, and that it would be a wise thing to continue him in office. I have been led to believe that there have been times when his personal habits in regard to the use of intoxicating liquors have not been commendable. I do not believe that those habits have interfered with his performance of his duties as a judge. In regard to the charges of corruption, these charges have been made in a general way. I think it is not fair to him. The charges are made in a general way. Rumors should not affect the character of a judge of a court of record. I have not communicated with him. I have not heard from him. In justice to him, as he is absent, it seems to me unfair for the evidence to go against him without any word lifted in his behalf. If he is so outrageous and so notorious, why have not charges been brought against him? He can be informed against. I feel that it is not fair to Judge Kalua. He is not equal in legal training to the American-European lawyers. He has a good knowledge of law, sufficient for trial of cases. I simply wish to put this on record on his behalf.

Senator MITCHELL. Now, Mr. Smith, I hold in my hand certain specific, positive charges, dated recently, and signed by three gentlemen, in which very serious charges are made against this judge. They are signed by James E. Cooke, A. N. Kepoikai, and G. B. Robertson.

Mr. SMITH. That is perfectly correct, if they are true.

Senator MITCHELL. I want to call your attention to these charges and see what you know, if anything.

(Reads the charges.)

Do you know anything in reference to any of these charges?

Mr. SMITH. I don't know personally in regard to the charge about those two prisoners which he sentenced as charged, but I do know about this last complaint against him for having appropriated that money. I have heard the charges against him about drinking too much at times. I never heard of his being drunk on the bench. Has a copy of this been furnished him?

Senator Mitchell. They only came in yesterday. As soon as the testimony was given on the boat I addressed a letter to the judge, advising him of the matter and giving him an opportunity to be heard before the commission, and that he would be furnished with the charges.

Mr. SMITH. I will state in regard to his not being here, that letter could not get there until Saturday. If he had come immediately that day he could have been here Sunday, otherwise no opportunity has been given him to be here until Friday. I don't wish for one moment to condone anything if these charges are true. If he has been corrupt

in his office I don't wish to uphold him in doing it. As far as I had heard he had no one to represent him and had not been heard here.

Senator FOSTER. A letter was sent to him.

Mr. SMITH. A copy of the charges?

Senator MITCHELL. The charges were not filed at that time, but the charges were being prepared by parties from Maui.

Mr. SMITH. I want to say that the Maui News is edited by that same man, Robertson.

Senator MITCHELL. Don't spend any time in defending anybody from newspapers, because that is not necessary. I am speaking for myself now. When parties present these things we receive them, and they would have only the bearing of a general inquiry as to the administration here. These charges, if they should be acted on, ought to be filed with the Department of Justice, so that no injury would come to the judge himself by reason of the fact that he was not heard before us. We are not the ones to inquire into these things specifically, but the Department.

Mr. SMITH. But this is a matter of record.

Senator MITCHELL. I appreciate the spirit in which you come before us.

Mr. DAVIS. May I ask Mr. Smith a few questions? Do you think it is a properly constituted court in cases of murder to have a man sit on the bench of the appellate court, where human life is involved, with no commission and not sworn?

Mr. SMITH. As I said, yes; I do under certain circumstances. Under certain circumstances I do, and every complaint which you have made here just now, if it is true of a member of the bar, why would it not be safer—

Senator MITCHELL. Ask a question; do not argue.

Mr. SMITH. Let me answer that question. You know the law perfectly. If a supreme judge is disqualified, a circuit judge may be chosen, and if such a thing happens that a circuit judge is not available they may call upon some qualified member of the bar.

Mr. DAVIS. What check—what remedy is provided if he does not do what is right?

Mr. SMITH. What do you mean, not right?

Mr. DAVIS. What remedy? Suppose he had done what Kalua has done, just what you see there; suppose he were corrupt, same as these charges say, what remedy is there against a man who has no commission and is not sworn?

Mr. SMITH. The law provides that anyone acting in a judicial capacity proved corrupt, there is a penalty, and he may be prosecuted before the criminal courts.

Mr. DAVIS. He is a judge, is he?

Mr. SMITH. He would be a judicial officer under the statutes.

Mr. DAVIS. A judicial officer, you say?

Mr. SMITH. Let me answer. Is there not a law in Arizona authorizing the calling in of noncommissioned, nonsworn men of last resort?

Mr. DAVIS. I don't know. I don't think there is in any part of the world except this Territory.

Senator MITCHELL. I will state to Mr. Smith, if we do not hear from this judge before we leave, I will have a copy of these charges prepared and mailed to him, so that he can have an opportunity of forwarding an answer to us. Of course, I entirely agree with you that he is entitled to a hearing.

Mr. DAVIS. Will you state that you believe that John W. Kalua is a competent man to preside over a court of record?

Mr. SMITH. I think John W. Kalua has for several years presided as circuit judge of Maui—and A. N. Kepoikai before him—very acceptably, with the kind of cases that come up, and did very well, indeed.

Mr. DAVIS. Is he competent?

Mr. SMITH. I think he is competent for ordinary trials in the circuit. He would not be in equity matters or admiralty matters.

Mr. DAVIS. You heard my statement under oath?

Mr. SMITH. I did.

Mr. DAVIS. Did you believe that I made a misstatement in saying that I had drawn up his charges to the grand jury?

Mr. SMITH. I want to say that that matter of the grand jury in this country is new and there are no established forms to go by. I know many better lawyers than Kalua who were at a loss to know what procedure was before a grand jury.

Mr. DAVIS. You heard me state that I prepared the charge to the jury?

Mr. SMITH. I don't know whether you had to do it.

Mr. DAVIS. You heard?

Mr. SMITH. Were you counsel on one side of that case?

Mr. DAVIS. I was not. I was deputy attorney-general. If I had been counsel I would not have prepared those charges, and you know it. I know as much about law as you know.

Since the return of your committee it has received the following communication, not under oath, of course, signed C. B. Wells, purporting to be the manager of the Wailuku sugar plantation on the island of Maui. It speaks for itself in vindication of Judge J. W. Kalua.

OFFICE OF THE WAILUKU SUGAR COMPANY,
Wailuku, Maui, H. I., November 29, 1902.

Hon. JOHN H. MITCHELL,
*United States Senator, Chairman Subcommittee of the Committee
on Pacific Islands and Porto Rico, Washington.*

DEAR SIR: Having been for many years last past a resident of the Hawaiian Islands, and now and for several years past the manager of the Wailuku plantation, one of the largest on the island of Maui, I desire to speak in behalf of the Hon. J. W. Kalua, judge of the circuit court of the second judicial circuit, whose home is also in Wailuku.

Judge Kalua is the brightest Hawaiian on the island of Maui, if not the brightest Hawaiian in the Territory, and a man of great influence among the Hawaiian people. Since he has been appointed to the bench he has filled the position with satisfaction to the majority of litigants, and having watched his career on the bench closely, I believe that I can say that he has dealt evenhanded justice to the best of his ability.

I also can conscientiously say that I believe that his enemies are confined to few persons, some of whom would resort to any means to injure him. I have frequently been in Judge Kalua's court, serving as a juror and in attending to various law matters, and I have never seen Judge Kalua on the bench under the influence of liquor.

The judge is a hard worker, dispatching the business of the court in a prompt and orderly manner. He presides over the court with dignity, decides questions of law quickly, and has filled the position of judge acceptably, I believe, to a large majority of the people of his circuit.

Respectfully, yours,

C. B. WELLS.

JOHN H. MITCHELL.
JOSEPH R. BURTON.
ADDISON G. FOSTER.
JOSEPH C. S. BLACKBURN.

DEFALCATIONS AND CORRUPTION OF PUBLIC OFFICIALS.

There has been recently a perfect saturnalia of defalcations on the part of public officials in Hawaii, which has involved the administration of Governor Dole in a cloud, and which has enshrouded him in a maze of embarrassment.

In March last two clerks under James William Pratt, assessor and collector for the first taxation division of the Territory—Joseph Woodward and A. D. Thompson—neither under bond, were guilty of the embezzlement of public funds. Each has been indicted and is now under \$5,000 bond to appear for trial. While your committee was in session in Honolulu the following defalcations occurred:

B. H. Wright, chief clerk to James H. Boyd, Territorial superintendent of public works, was arrested, charged with embezzlement of public funds aggregating over \$8,000. He was committed to jail, unable to procure bail. At this time his superior officer, Superintendent Boyd, was absent in San Francisco. Neither of these officers is under bond, although it is possible that the latter may have under his control and in his possession at one time as much as \$800,000 or \$900,000. At the time of the arrest of Wright, the chief clerk, it was currently reported in Honolulu that Boyd, then absent, was short in his accounts. Since then, about October 23, 1902, as your committee is advised on reliable official authority, Superintendent Boyd returned to Honolulu. On his arrival, and after a personal interview with Governor Dole and Secretary Cooper, the governor addressed him a letter of which the following is a copy:

HONOLULU, HAWAII, *October 25, 1902.*

Mr. JAMES H. BOYD,

Superintendent of Public Works, Honolulu, Hawaii.

SIR: Referring to my letter to you of October 21, and your interview with Mr. Cooper and me on October 22, I desire to ask the following questions:

I. In regard to the \$3,000 received by you from Messrs. T. H. Davies & Co., in connection with the cancellation of their lease of a Hilo business lot—(a) What have you done with this money since receiving it? (b) Where has it been kept? (c) If deposited with any outside party or bank, on what account was it deposited and with what party or bank?

Please make immediate payment of this \$3,000 to the office of the public works department.

II. I understand from you at the interview that you had recently received payments on account of land sales, which money had not been entered in the office as government realizations, and had not in fact been entered at all in the office. (a) Where were such moneys placed? (b) In what account were they entered? (c) If deposited with any outside party, with what party or bank were they deposited? (d) On what account were they deposited? Please also make an immediate account of such moneys received from land sales as aforesaid and restitution of same to the office of the public works department.

Very respectfully,

SANFORD B. DOLE.

To this letter Superintendent Boyd made a reply, of which the following is a copy:

HONOLULU, October 27, 1902.

Hon. S. B. DOLE,
Governor Territory of Hawaii.

SIR: I have to acknowledge receipt of your communication of the 25th instant, at the hands of a messenger and after the usual office hours, relating to matter contained in your letter to me of the 21st instant and to my interview with yourself and Secretary Cooper, and asking questions.

1. "In regard to the \$3,000 received by you from Messrs. T. H. Davies & Co., in connection with the cancellation of their lease of a Hilo business lot."

2. "I understand from you at the interview, that you had recently received payments on account of land sales, which money had not been entered in the office as government realizations, and had in fact not been entered at all in the office."

In answer to the foregoing main questions I have to state that I feel they can be properly answered by me, but the subdivision of each are, to my view, highly improper and lead to the belief that they were formulated in haste and with the regard due to my official position and powers as an associate cabinet officer.

In answer to the matter contained in your letter of the 21st instant I beg leave to state that in compliance with your simple "request" I have carefully avoided for the time being from all interference with Secretary Cooper in his exercise of such authority, but I by no means acknowledge any legality or right in this assumption of my duties and powers as superintendent of public works; that this is in accord with your own, sir, I note in your address to me by my official title.

To the first question I respectfully desire to say, in answer, that: The sum of \$3,000 was received by me from Messrs. T. H. Davies & Co., was duly receipted for by me as superintendent of public works and entry made thereof. My official letter book, which has been placed before the public without my knowledge or consent, explains the status of the work up to a few days before I left on my vacation to the coast, so there can be no question to answer relative to concealment or evasion.

That is probable the transaction is misunderstood appears in your quotation "in connection with the cancellation of their lease of a Hilo business lot," as the condition of the deposit was very plainly shown by my receipt, to which I respectfully refer you; the money was received by me to be "expended for the improvement and extension of Bridge street, Hilo, Hawaii." As superintendent of public works I would not have been faithful to my official trust if I had permitted the construction, approval of the work, and expenditures of money thereon other than through myself in my official capacity. To find a proper placement of the amount, to have it available for the special purpose proposed, devolved on me personally, not upon any clerk of mine nor any member of the government.

The money could not be made a "government realization," it could not have been deposited with either the registrar or the auditor as a special fund, my office could not be made a banking house, so the money was properly placed where it is and shall remain subject to my order on drafts for the construction of the work agreed upon unless it should be agreed upon by Messrs. Theo. Davies & Co. and the Government that it should be paid in as a "government realization." The amount is available at a moment's notice, and in passing I beg leave to say that the construction of the work and deposit by Messrs. T. H. Davies & Co. found its incipency and approval at a cabinet meeting, the minutes whereof I respectfully refer you to.

To the second question I have to say that the words spoken to you, sir, by me must have been greatly misunderstood from the construction presented in your letter. Moneys received from land sales have all been entered, but as the final payments on the sales had not been completed the account remained open. It had been my intention to have had payments all gone carefully over and checked before making the final deposit with the Treasury, and I had laid out this as part of the uncompleted work to be finished by me on my return from the coast, as I had no premonition of any evil happenings.

I believe the word "restitution" used in one of the subquestions demands a passing notice, and I respectfully present, sir, that the use thereof is inapplicable to any official transactions of mine, as all the moneys belonging to the government of the Territory of Hawaii have neither been given nor taken by me for other than purposes legal and lawful, and the sums coming within my personal keep as superintendent of public works are open for inspection and for proper disbursement. I consider that the word was inadvertently used, and therefore subscribe myself,

Very respectfully,

JAMES H. BOYD,
Superintendent of Public Works.

To this letter Governor Dole replied as follows:

HONOLULU, *October 28, 1902.*

MR. J. H. BOYD,

Superintendent of Public Works, Honolulu, Hawaii.

SIR: Your letter of October 27, in reply to mine of October 25, has been received, and is, I regret to say, entirely unsatisfactory.

You have failed to answer the specific questions I put to you in my letter on the ground that they, in your view, "were highly improper, and lead to the belief that they were formulated in haste and not with due regard to my (your) official position and powers and as an associate cabinet officer."

Permit me to remind you that under the government of the Territory of Hawaii there is no such body as a cabinet, and consequently no cabinet officers.

As governor of the Territory and "responsible for the faithful execution of the laws of the United States and of the Territory of Hawaii within said Territory," I feel that I must use my own judgment as to the form of questions to be asked for the purpose of obtaining information in regard to the state of public accounts and the conduct of my subordinates.

In relation to the \$3,000 received by you from Messrs. T. H. Davies & Co., your verbal statement, made after the receipt of your letter, that \$2,500 of this amount was deposited with Messrs. Spreckels & Co., and that the balance of \$500 was placed in the safe under your personal control in the public-works office with a tag explaining the status of this fund and referring to the balance deposited with Spreckels & Co., substantially covers my specific questions relating to the same. Your statement, however, "that the construction of the work and deposit by Messrs. T. H. Davies & Co. found its incipency and approval at a cabinet meeting, the minutes whereof I respectfully refer to you," is not borne out by the minutes referred to, which are as follows:

"Mr. J. H. Boyd read a communication from T. H. Davies & Co., asking to be allowed to give up their lease to lots Nos. 522 and 523 in Hilo, and offering as compensation to do \$3,000 worth of street work in Hilo or give this amount of money. The meeting recommended that the street-work proposition be accepted."

I take pleasure in making acknowledgment that this \$3,000 has since been paid in to the public-works office at about the same time from you of \$2,995 on account of land sales, which had not been previously entered in the books of the office, and \$312.30 as interest on deferred payments.

It is still necessary that a detailed account be furnished by you of this money paid in on account of land sales.

While your action in the payment of these accounts was the best thing possible for you to do under the circumstances and will go far to produce a sentiment of leniency toward you in the public mind, I do not feel that it is in any sense an extenuation of your conduct in withholding public funds collected by you as an officer of the government and failing to enter them in the public accounts.

I take note of your explanation in regard to the moneys received by you from T. H. Davies & Co., and allow all reasonable consideration in your favor in this case, but the deposit of a portion of these funds in your private bank account with Messrs. Spreckels & Co. was, from my point of view, a matter of grave impropriety under the circumstances.

The matter of the retention of the funds received from land sales, and the failure to enter the same in the books of your office, is a still more serious breach of public trust, and was wholly inconsistent with any reasonable theory of your duties and responsibilities as a public officer.

While, therefore, I appreciate your action in facing the situation and doing what remained for you to do in the matter, my own responsibility to the Government of the United States and the public interests of this Territory for the faithful execution of the laws and the strict administration of public funds makes it impossible for me to overlook your official conduct and further recognize your official authority. I, therefore, with sincere regret, ask for your immediate resignation of the office of superintendent of public works.

Very respectfully,

SANFORD B. DOLE.

This communication and demand for the immediate resignation of Superintendent Boyd met with the following response:

HONOLULU, *October 28, 1902.*

HON. S. B. DOLE,

Governor Territory Hawaii.

SIR: As any discussion of the subject-matter of your letter of even date in to the continuance of the office of superintendent of public works by me v

no useful purpose, I desire merely to acknowledge receipt of said letter and to inform you that I will immediately resume the performance of my duties as superintendent of public works.

Very respectfully,

JAMES H. BOYD,
Superintendent of Public Works.

To this letter Governor Dole replied as follows, suspending Superintendent Boyd from his office:

HONOLULU, HAWAII, *October 29, 1902.*

Mr. J. H. BOYD,

Superintendent of Public Works, Honolulu, Hawaii.

SIR: Your letter of October 28, in reply to mine of same date asking for your resignation of the office of superintendent of public works, and in which you express the intention of resuming the duties of such position, has been received. For the reasons set forth in my said letter and in view of your expressed intention of resuming the duties of superintendent of public works, I hereby, by virtue of authority in me vested by law, and particularly by sections 67 and 68 of the organic act, suspend you from such office.

Very respectfully,

SANFORD B. DOLE.

Subsequently Superintendent Boyd, on complaint charging him with the embezzlement of the sum of \$1,650—this amount having no connection with the other, about \$6,000, paid over upon his return from San Francisco—was arrested, has been indicted, and is now on bail for his appearance in court.

Your committee has set out these proceedings at some length for the purpose of presenting reasons for certain proposed amendments to the organic law, making more plain and definite the power of the governor in cases of defalcation, or of any other official irregularity demanding removal from office, and for the purpose of requiring Federal and Territorial officials having control of public moneys to give proper bonds.

In September last, during the sessions of your committee in Honolulu, William H. Wright, Territorial treasurer, an official under no bond whatever, defaulted in the sum of \$17,949.91 and absconded from the Territory, and it is believed he is now a refugee in Mexico. Soon after he defaulted and absconded his brother, Walter A. Wright, deputy tax assessor and collector for Waimea district, island of Kauai, was found to be short in his accounts to the amount of \$2,848.40, and when your committee left Hawaii steps were being taken for his arrest. About that same time H. C. Austin, Territorial auditor, was suspended by Governor Dole, the suspension being based on charges of grave irregularity in his office. Thus in a space of less than six months seven of the Territorial officials in Hawaii defaulted and were arraigned on criminal charges for embezzling public funds.

Although all these officers thus defaulting, except Woodward, Thompson, Chief Clerk Wright, and Walter A. Wright, were appointed by Governor Dole, by and with the advice and consent of the Territorial senate, inasmuch as it is conceded by all that these defaulting officers had always, prior to their respective appointments, borne good reputations for integrity and business capacity, it would, in the opinion of the committee, be unjust to attach any blame on account of these official irregularities to Governor Dole. It is, however, a matter of surprise that there is no provision whatever in the organic act, or in any local statute, requiring either the Territorial treasurer, or any other Federal or Territorial officer, except in the case of the "assessor and tax collector," to give a bond conditioned for the faithful performance of the trust.

In the case of the "assessor and tax collector," while the local statute requires him to give bond in not less than \$10,000, he was only required

to give a bond, and is now under such bond, in the sum of but \$2,000, while by his own testimony before the committee he may have as much as \$650,000 taxes in his hands and under his control at one time. In not requiring a greater bond from this officer your committee believe the governor and secretary of state are properly chargeable with negligence of public duties. Your committee recommends such legislation as will compel every public officer, both Federal and Territorial, who has control of public funds to give a sufficient bond to cover any and all delinquencies.

ILLEGAL TRANSFER OF CHINESE FUND.

In this connection your committee deems it proper to attract attention to the character of the fund from which this sum of \$17,949.91 was stolen by Treasurer Wright and the manner in which it came into the possession and under his control without any bond or other security whatever to guarantee its safety.

The funds from which Treasurer Wright appropriated to his personal use the amount above stated is known as the "Chinese fund." Under a law of the late Republic of Hawaii, Chinese laborers were permitted to come to that country for three years to engage in field labor on the plantations for hire, with a provision that when they ceased such work they should be deported back to China; and to meet the expense of such deportation their employers were required by law to deposit \$1.50 each month for each man in cash, the money to be deposited in the Postal Savings Bank of that country, and this fund was from time to time drawn upon to pay the passage of these Chinese laborers back to China. The amount so deposited by the employer was deducted from the laborer's wages.

When the Savings Bank of the Republic was abolished by the organic act, the fund was transferred to the First National Bank of Honolulu, a national depository.

On July 25, 1901, Henry E. Cooper, secretary of the Territory, and then acting governor, caused \$52,795 of the amount then deposited in the First National Bank, as above stated, to be withdrawn from the bank and placed in the hands of William H. Wright, treasurer of the Territory, as a special deposit. This amount was subsequently increased from time to time by receipts filed with the secretary of the Territory until the sum thus on deposit with Treasurer Wright in this particular fund was, at the date of his defalcation, \$161,226.25. This total amount, therefore, was in his possession and under his absolute control, and the registrar of the treasury had nothing whatever to do with it, as he had to a great extent with the other funds generally of the Territory. There was still a balance remaining in the possession of the First National Bank of Honolulu and used by Mr. Taylor, acting as the representative of the old board of immigration, to pay the passage of Chinese in that country who from time to time were returning to China.

This transfer of these funds from the national depository, where they were amply secured by the deposit of bonds, to the possession and control of the Territorial treasurer, who was under no bonds whatever, your committee believe to have been done without any authority of law whatever, and was an act upon the part of the acting governor of the Territory wholly illegal and unwise in the extreme. And the diversion of said funds, or a part thereof, as is conceded to have been done by using the same to meet ordinary public expenditures, was a transaction on the part of Governor Dole and Secretary

Cooper wholly illegal, inasmuch as it was an improper use of a trust fund under their control.

Inquiry was made of Governor Dole, when on the witness stand before your committee, as to what legal authority authorized the acting governor or secretary of the Territory to transfer this Chinese fund from the national depository into the hands and under the control of the Territorial treasurer, and his answer was as follows:

Governor DOLE. I do not think by any provision of law. It was necessitated by the termination of the Postal Savings Bank by the organic act.

Senator MITCHELL. But to some other depository?

Governor DOLE. It was placed partially in the First National Bank, I think. Part of it, I think, is there now.

Senator MITCHELL. What was the amount of that fund placed in the hands of the treasurer?

Governor DOLE. I do not know; it may have been about \$63,000. Mr. Cooper has charge of that matter of sending these men away. These men are constantly coming in with their receipts from the Postal Savings Bank and the money is furnished them when they leave the country.

Senator MITCHELL. Do you think it advisable, Governor, that the law should permit an officer like the treasurer of the Territory to serve without bonds?

Governor DOLE. It does not look so from recent events.

That Secretary Cooper, however, may have the full benefit of his explanation for the transfer of this fund, your committee refers to his testimony. (See Appendix.)

THE CHINESE CONSUL IN HONOLULU OBJECTED TO THE TRANSFER AND ILLEGAL USE OF THIS FUND.

As will be seen from the following correspondence, the Chinese consul in Honolulu protested vigorously against the transfer of this fund from the First National Bank of Hawaii, a United States Government depository, to which it was very properly transferred on the abolishment of the Postal Savings Bank by the organic act, and also against any diversion of said fund or use of the same for the current expenses of the Territory of Hawaii or otherwise.

CORRESPONDENCE.

SEPTEMBER 26, 1902.

Hon. Senator MITCHELL,

Chairman of the Subcommittee, etc.

SIR: At your request during our interview at the Hawaii Hotel, on the 25th instant, 5 p. m., that copies of the communication of Hon. H. E. Cooper, and those of others referring to the question of the Chinese immigration trust fund, be copied and the same sent to you, I have the honor to herewith inclose five copies for your consideration.

I have the honor to further request that the Congress will instruct the Chinese immigration trust fund be distributed to the Chinese laborers who are interested in it.

Yours, most respectfully,

GOO KIM FUI,

Her Imperial Chinese Majesty's Acting Consul.

HONOLULU, HAWAII, July 9, 1901.

FIRST NATIONAL BANK OF HAWAII,

Honolulu, Hawaii:

As official representative in Hawaii Territory of the Chinese Empire and in behalf of the Chinese subjects who have contributed to the Chinese immigration trust fund deposited with you and who alone are entitled to withdraw and receive same, I hereby protest against any diversion of said fund from its proper and legal purpose or any use of the same for the current expenses of the Territory of Hawaii or otherwise. It will be my duty to inaugurate, and this is to notify you that I shall in due course inaugurate, the proper steps in the courts and elsewhere to protect the interests

of Chinese subjects interested in this fund, and prevent any diversion of the same from its proper object, and pending the same I have the honor to file with you this protest against any payment by you of said fund, or any part thereof, except to persons entitled to receive the same.

I am, very respectfully, your obedient servant,

YANG WEI PIN,
His Imperial Chinese Majesty's Consul.

HONOLULU, July 8, 1901.

Mr. WRAY TAYLOR,

Ex-Secretary of the Board of Immigration:

As the official representative in Hawaii Territory of the Chinese Empire, and in behalf of the Chinese subjects who have contributed to the Chinese-immigration trust fund and who alone are entitled to withdraw and receive the same, I beg leave to respectfully protest against any diversion of the same or use of the same for the current expenses of the Territory of Hawaii or otherwise. It will be my duty to inaugurate in due course proper steps in the courts and elsewhere to protect the interests of Chinese subjects interested in this fund, and pending the same I have the honor to file with you this protest against any interference with said fund.

I am, very respectfully, your obedient servant,

YANG WEI PIN,
His Imperial Chinese Majesty's Consul.

HONOLULU, July 9, 1901.

Hon. YANG WEI PIN,

His Imperial Chinese Majesty's Consul, Honolulu.

SIR: Your letter of the 8th instant, addressed to Mr. Wray Taylor, ex-secretary of the board of immigration, has been referred to me.

The Chinese who made the deposits with the board of immigration in accordance with the conditional permits issued to them by the Republic of Hawaii are not entitled to the payment of the money so deposited, but in case the person who made the deposit desires to return to China the fund is to be applied for the payment of his passage, and the remainder, if any, paid to him.

I think you have been misinformed as to the intentions of the Territorial government in regard to the fund you refer to. The Territorial government will promptly provide the funds for the payment of the passage to China of each depositor when he is ready to leave this country up to the amount standing to his credit. Until such time, however, the fund will remain in the custody of the Territorial government.

I am, sir, very respectfully,

H. E. COOPER,
Acting Governor.

TERRITORY OF HAWAII,
COMMISSIONER OF AGRICULTURE AND FORESTRY,
Honolulu, July 9, 1901.

Hon. YANG WEI PIN,

Chinese Consul, Territory of Hawaii.

DEAR SIR: I have the honor to acknowledge the receipt of your letter of the 8th instant in re the Chinese immigration fund, and to say in reply that the same has this day been referred to the Hon. H. E. Cooper, acting governor of the Territory of Hawaii.

Yours, most respectfully,

WRAY TAYLOR.

THE FIRST NATIONAL BANK OF HAWAII, AT HONOLULU,
UNITED STATES GOVERNMENT DEPOSITARY,
Honolulu, July 12, 1901.

Hon. YANG WEI PIN,

His Imperial Chinese Majesty's Consul, Honolulu.

SIR: We beg to acknowledge receipt of your communication of the 8th instant in relation to the Chinese-immigration trust fund deposited with this bank and standing in the name of the board of immigration trustee, and in answer thereto say that we have communicated with H. E. Cooper, acting governor of the Territory, and

have furnished him with a copy of your protest. I would suggest that any action you propose undertaking in this matter should be had as early as possible, as we have been notified by the acting governor that he intends to withdraw the money from this bank and deposit the same in the Territorial treasury.

Very respectfully, yours,

CECIL BROWN, *President.*

Hon. Thomas Fitch, a prominent member of the Hawaiian bar and former member of Congress from Nevada, submitted to your committee the following remarks bearing on this subject:

With some reluctance I offer a word of criticism concerning the action of Secretary Cooper and Governor Dole. Both are lawyers, both have been judges, and both are gentlemen of well-deserved reputations for probity. Both know the sacredness of a trust fund, and especially of a fund in which a portion of the scanty earnings of poor and helpless aliens had been deposited in order to enable them, when their term of service should expire, to be returned to their native land. How it was that Secretary Cooper found it consistent with his legal knowledge and his business acumen to take a trust fund of \$160,000 from the safe custody of a national bank and place it in the hands of an official who gave no bonds I can not comprehend, and it is still more incomprehensible that Governor Dole should have permitted this trust fund to be used for ordinary public expenditures and allowed unavailable treasury warrants to be substituted for gold coin.

Your committee recommends such action upon the part of Congress as will preserve this Chinese fund for the specific purpose for which it was created.

JOHN H. MITCHELL,
JOSEPH R. BURTON,
ADDISON G. FOSTER,
JOSEPH C. S. BLACKBURN,
Subcommittee.

THE PUNCHBOWL LANDS.

The attention of your committee has been called to the peculiar status of a large number of Portuguese and their families now residing on what are known as the slopes of Punchbowl. These lands were, in 1882 and prior to that, as claimed by memorialists, barren wastes of land situated in Honolulu, island of Oahu, on these slopes near the extinct crater known as Punchbowl. These lands were a part of the Crown lands, and on August 15, 1882, as claimed by memorialists, the then crown land commissioner under the monarchy executed a lease of these lands for thirty years to Edward Lillikalani at a rental of \$100 per annum, and on the 10th day of October following (1882), as it is claimed, Edward Lillikalani assigned this lease to the late Queen Dowager Kapiolani for the consideration of \$1.

At the death of the Queen Dowager it is claimed her heirs became the owners of the land in question, and these heirs incorporated under what is to-day known as the "Kapiolani Estate, Limited," a corporation, and this corporation is to day the owner and holder of this lease.

This lease expires August 15, 1912. Soon after the execution of this lease, in August, 1882, and for several years thereafter, many hundred Portuguese residents, and some others of other nationalities, obtained from the late Queen Dowager subleases of small parcels of these lands, and on these erected their homes, planted trees and flowers, and made other home improvements, beautifying the same in their peculiar manner, and they now furnish homes for about 6,000 people, mostly well-to-do, sober, industrious Portuguese and their families. It is, indeed, now an interesting and beautiful part of the city of Honolulu.

All these subleases expire, however, August 15, 1912, less than ten years hence, and then all these families will be without any right whatever to remain on these lands, and will be at the mercy of the government, the owner of the lands in question, and will be liable to be dispossessed, thus losing their homes. These people are desirous that the government take some action prior to the expiration of these subleases whereby they will be protected in their homes by giving them a preference right to purchase the legal title to the same at such reasonable sum as may be deemed equitable and just under the circumstances. As will be seen by the memorial of the committee representing these Portuguese presented to your committee (see appendix), they are fearful that the Territorial government of Hawaii, unless restrained, will exchange or make some disposition of portions of these lands, if not all, by leasing or selling them to parties other than those who have improved them, and, as they say in the memorial, "who by natural justice should have the first say about their disposition," and it is asserted that the local government has already exchanged a portion of said lands with the Kapiolani Estate, Limited. It further appears from this same memorial that the following sums of money have been expended solely by the Portuguese constituency in improving the

slopes of Punchbowl, to say nothing of what other nationalities have also expended under like subleases.

For buildings	\$540, 438. 00
For other improvements, plumbing, etc	170, 163. 00
For taxes to January, 1903	33, 210. 00
For taxes paid to Kapiolani estate	9, 799. 00
For rent paid to Kapiolani estate	121, 219. 00
For water rates	73, 000. 00

Total	947, 899. 00
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Your committee are of the opinion that there is much merit in this appeal of these Portuguese as set out in the memorial, and it is earnestly recommended that some action be taken by Congress, first, withdrawing all these lands from further lease or sale, and this your committee recommend be done at once; and, secondly, for such legislation as will give a preference right of purchase to the parties holding under these subleases who have made valuable improvements, at such reasonable price as may be fixed by a commission to be appointed either by Congress or by the Secretary of the Interior. (For copy of the Portuguese memorial see appendix.)

A SOMEWHAT SIMILAR CLAIM.

A somewhat similar claim was presented by certain citizens whose names appear in the petition which follows, and the nature of which claim also appears from such petition. (The petition follows:)

To the honorable Subcommittee of the United States Senate Committee on Pacific Islands and Porto Rico.

HONORABLE SIRS: The undersigned beg to protest against the action of the Territorial officials in exchanging certain public lands of the Territory for lands of private individuals for the purposes and facilitations of private enterprise and without any remuneration to the Territory therefor.

And we respectfully show unto your honorable committee that we have been actual and bona fide tenants and occupants of a portion of that certain parcel of land known as Auwaiolimu for and during the past thirty years, and that we have improved said lands and erected our homes thereupon, feeling secure that our tenancy, for which we have paid fair and reasonable rent during said thirty years, would entitle us to preference as purchasers in the event of the sales of said lands according to usual and more equitable methods.

We respectfully urge upon your honorable committee the injustice of permitting these lands to be given gratuitously to or for the promotion of private enterprise, and of denying us the first right to purchase the same; and we submit that the confirmation of the gratuitous giving of these lands to the Honolulu Rapid Transit and Land Company will operate to deprive us of our humble homes without any recompense therefor; and

We therefore earnestly pray that your honorable committee may, upon inquiry and confirmation of the facts as we are prepared to establish them, recommend to the President of the United States that the transaction of said gratuitous giving of these lands may be not confirmed or countenanced.

Senator D. KALAUOKALANI.
MRS. KAAHANUI KAWAIHOA (x).
N. W. KAHOLI (x).
Mrs. LULIA KALAUOKOA.

Witness:

DAVID KALAUOKALANI, Jr.

It will be seen from this petition that these petitioners claim to have been tenants on the parcel of land known as Auwaiolimu for some thirty years past as tenants, paying rent therefor. Your committee recommend similar action looking to the relief of these settlers recommended in reference to the settlers on the Punch Bowl Slopes.

THE CLAIM OF TENANTS ON LANDS OCCUPIED BY THE KALIHI DETENTION CAMP, IN THE CITY OF HONOLULU.

In reference to a petition presented to your committee, of which the following is a copy, your committee is constrained to state that the relief they pray for depends entirely on the will of the owner of the property known as the "Kalihi detention camp" (the Bishop estate), as it appears from such petition that the lands occupied by this detention camp, about 5 acres, more or less, is the property of the estate of Bernice P. Bishop, and this land is leased by the Territorial government. The petitioners are tenants of the government at a small rental of \$1.50 per month for each room, and as the petitioners desire to exchange these lands occupied by the detention camp for other lands owned by the United States, and leased to the Bishop estate, so that the lands occupied now by the detention camp can be given as homesteads to the petitioners, it presents a question in which the Government of the United States can do nothing. It all depends on the will of the Bishop estate, the owner of the detention camp lands, as it is admitted in the petition. These lands belong to that estate. If that estate declines to make the exchange, the government, both National and Territorial, is powerless to do anything, as they have no power to compel the owner of the property to make an exchange. The following is the petition referred to:

To the honorable Commission from the United States to inquire into the conditions existing in the Territory of Hawaii, etc.; to the President of the United States, and to the Senate and House of Representatives of the United States:

We, the undersigned, citizens of the United States and of the Territory of Hawaii, residing at a place known as "Kalihi detention camp," situated at Waiakamilo, Kalihi, in the city of Honolulu, on the island of Oahu, do hereby respectfully present this petition, as follows, to wit:

That the said "Kalihi detention camp" is a piece or parcel of land of about 5 acres, more or less, in area, and belongs to the estate of Bernice P. Bishop.

That the same is under lease (as your petitioners believe it to be) to the Territorial government at an annual rental of about \$900.

Your petitioners are residing on said "camp" as tenants of the Territorial government at the rate of \$1.50 rent per month for each room.

And whereas the said estate of Bernice P. Bishop is holding under lease certain lands belonging to the Territory of Hawaii, we therefore respectfully request to exchange such Territorial government lands now held by said estate of Bernice P. Bishop for the above "Kalihi detention camp" as a government reservation, to be given as homesteads to your petitioners.

William Kaai, Kahalepio, David Umi, W. M. Peter, K. Kelunuiopio, J. Kamaha, Pelehakala, Moke, K. K. Ioune, Waohs, H. H. Kaleiheana, Chas. Kupule, Geo. Wainee, John Kabanawa, L. Poai, Sam Kamann, H. Kaike, B. Hoomana, Dick Karratte, Makila Wainee, Wallace Jackson, John Mailua, Solomon Kealoha, Mania, Henry Lilikoi, Geo. Kane, W. E. Alokikia, J. Maukoli, Moses Haaieono, Ben. Amina, William Jackson, J. H. Knochao, Solomon Bipikane, M. K. Kaaiswar, Usek, And. Mautoli, Mast. A. Hoopii, Kaheanani, H. B. Kaleikumahoa, S. D. W. Kahoiwai, L. Pun, Iokewe, Mr. G. H. Kaliko, Kapaihi, Andrew Kahalwhu, David Kala, Sam. Ahia, D. Paataula, John Davis, L. K. Poke, Willie Kalanikan, Sam. Unea, J. K. Iuch, Henry Kaumoi, Makauli, H. W. Cleveland, Abner Wiliki, J. Apiki, Geo. K. Fox, Sol. K. Kahoaka, John Lakalo, H. W. Kaauiwai, Kahuila, S. Makolo, Kio Kairei, L. Waiwaiole, Paulo, John Kaarars, Kahaleulei.

HAWAIIAN SILVER.

In the year 1886 Mr. Claus Spreckels, in connection with a Mr. Gibson, a leading spirit under King Kalakaua's government, introduced into the islands \$1,000,000 in silver coins, for which he received the

gold bonds of that government, bearing 6 per cent interest, in payment. This currency was divided into dollars, half dollars, and 10-cent pieces, of the same intrinsic value as the United States currency, and impressed with the Hawaiian coat of arms on one side, and with the King's face or profile on the other side, and was made legal tender to the amount of \$10 only in any one payment. This amount of silver currency for the size, population, and business of the islands was entirely too large, and it is claimed was a burden from its inception. Under the relations existing between that government and the United States, payment was made in San Francisco for all foreign exchanges, and if accounts were overdrawn in San Francisco, or debts were to be met, the banks in Hawaii could not remit this currency in payment, and such is still the case at the present time.

There is outstanding of this amount about \$850,000 or \$900,000; about \$100,000 is supposed to have disappeared; the dimes have all gone. This question has been before Congress heretofore and is fully understood. Your committee earnestly recommend the passage of the bill S. 2210, reported with amendments by Senator Foraker last session, and as it passed the Senate March 12, 1902.

As bearing upon the pressing necessity for the passage of this bill your committee refers to the testimony of Samuel M. Damon, printed in the appendix; also to the memorial presented to your committee by the Merchants' Association of Honolulu, see appendix; also to the memorial of the Honolulu Chamber of Commerce, see appendix; subdivision "Hawaiian silver."

THE JUDICIARY.

Section 82 of the act entitled "An act to provide a government for the Territory of Hawaii," approved April 30, 1900, provides as follows:

That the supreme court shall consist of a chief justice and two associate justices, who shall be citizens of the Territory of Hawaii, and shall be appointed by the President of the United States, by and with the advice and consent of the Senate of the United States, and may be removed by the President: *Provided, however,* That in case of disqualification or absence of any justice thereof, in any cause pending before the court, on the trial and determination of said cause, his place shall be filled as provided by law.

Under this provision of the organic act it is held that the words "as provided by law" have reference to the local law of the Territory on the subject of filling vacancies. This local law is one that has come down from the monarchy, through the Republic, and is to the effect that if in any case pending in the supreme court there is a disqualification or absence of any justice thereof that then the two remaining justices shall select either a circuit judge or a member of the bar to take his place. The person so selected takes his seat on the bench of the supreme court without any other designation or appointment than the mere selection by the two justices, and without taking any oath of office, and becomes *ipso facto* one of the justices of the supreme court and participates in the hearings, decisions, and writing of opinions to the same extent and with the same authority as do the justices of the court appointed by the President of the United States and confirmed by the United States Senate.

To illustrate how such a practice may result in the entire abolishment of the court established by the act of Congress, and the justices of whom are appointed by the President and confirmed by the Senate,

it is only necessary to call attention to the following testimony of Chief Justice Frear, taken before your committee.

Chief Justice Walter Francis Frear, being under examination before your committee, among other things the following took place:

Chief Justice FREAR, sworn:

Senator MITCHELL. State your name, age, residence, and occupation.

Judge FREAR. Walter Francis Frear; Honolulu, Territory of Hawaii; chief justice of the supreme court.

Senator MITCHELL. Of the Territory?

Judge FREAR. Yes.

Senator MITCHELL. How long have you been chief justice of the supreme court?

Judge FREAR. Since July 5, 1900—a little over two years.

Senator MITCHELL. What is your nativity?

Judge FREAR. State of California.

Senator MITCHELL. How long have you resided in the Territory?

Judge FREAR. Since 1870, with the exception of perhaps seven years.

Senator MITCHELL. Were you engaged in the practice of law prior to your appointment?

Judge FREAR. I was.

Senator MITCHELL. Now, Judge, you may make any statement to the committee that you deem it important for us to know.

Judge FREAR. There are two or three points that I have seen by the papers that have been brought out before the commission relating to the judiciary upon which I would be glad to say a word or two. In regard to the selection of the circuit judges or members of the bar in place of disqualified or absent members of the supreme court, I think that without any question that system is objectionable from some standpoints, but the question is whether there is any better alternative. A few years ago here, on account of the illness of the then chief justice for nearly a year and the absence of the first associate justice for several months in Washington on official business, there were a great many cases in which substitutes had to be called in.

Senator BURTON. On official business?

Judge FREAR. That is, myself. I was a member of the Hawaiian commission appointed by President McKinley. Now conditions have become more normal. I was interested the other day in looking up the decisions of the supreme court from the first of the present year, and I found between 80 and 90 cases decided during that time up to the end of the term in July, and that in only 5 of these cases did substitutes take part, and 2 of these cases were tried together in the circuit court and heard together in the supreme court—practically one case. I think that perhaps the history of that provision will throw some light upon it and upon the favor in which it stands among the bar of this Territory. The provision was first inserted in the act to reorganize the judiciary department, which took effect the 1st of January, 1893. That act was approved by the present Governor Dole, Gen. A. S. Hartwell, formerly a member of the supreme court, also formerly attorney-general, and Mr. Clarence W. Ashford, who had also been attorney-general.

These were all leading members of the bar and probably as able men as could be found, and they approved that act. Two years later I doubted the constitutionality of the act, and so when the convention was called for framing the constitution of the Republic in 1894 I drafted a provision to be inserted in that constitution permitting the Legislature to provide for the filling of vacancies in particular cases, and that provision was inserted in that constitution. That constitution was carefully studied and discussed by a very large number of the leading members of the bar of this Territory. Two years later, in 1896, that statute of 1894 was amended. The former statute permitted a substitute in case of one member only of the court, but there had been one or two cases in which two members were disqualified, and so the statute provision was extended so as to permit substitutes to be called in when two members were disqualified. Of course that rarely happens, but so far as I know the extension even of that provision met with no opposition. There have been a number of sessions of the legislature since then, and I am not aware that there has ever been an attempt or even suggestion to repeal or alter that provision.

Senator MITCHELL. I wish to ask you this question: You think the phraseology in the organic act fully justifies the conclusion that Congress intended that these vacancies that occur from time to time should be filled by the court under the Territorial act?

Judge FREAR. The organic act provides that vacancies may be filled in the manner provided by law.

Senator MITCHELL. That is the phraseology?

Judge FREAR. That is the manner provided by an act of our own legislature. I don't know the intention of Congress. I know it was the intention of our Hawaiian commission, because that was discussed, and we have to construe the passage here as it reads and not with reference to any outside intention; but the commission was aware of the provision in the constitution of the Republic of Hawaii, and the matter was of course gone over in the committees of Congress. I was present during the sessions of both the committee of the House and the committee of the Senate during the first session at which the bill was introduced, though not at the session at which it was passed, and the provision was gone over carefully by both committees.

Senator MITCHELL. Under the law, Judge, is it not possible for the whole supreme court, the three judges that have been appointed by the President of the United States and confirmed by the Senate, to be eliminated and the court constituted of three lawyers?

Judge FREAR. If that were so it would be for a particular case only.

Senator MITCHELL. That is what I am inquiring—is it not possible for a particular case?

Judge FREAR. I don't so construe the act, because the act provides in case of the absence or disqualification of any justice the remaining justice or justices may call in, etc. Now, how can there be any remaining justice to appoint if they are all disqualified?

Senator BURTON. Just one point. Then that one would be a justice to appoint the other?

Judge FREAR. The question is whether the remaining does not mean the justice who is disqualified.

Senator BURTON. If a man is serving to try a case, and can try it at all, he is certainly qualified for all purposes of that case.

Judge FREAR. I beg pardon.

Senator BURTON. If a man can try a case at all he is certainly qualified for all purposes of that case. You can not limit his power to try that case. You can not say he is qualified to try a case and not qualified to fill a vacancy.

Judge FREAR. Qualified to try that case alone.

Senator BURTON. I say if he is qualified to try that case alone, he is qualified to fill a vacancy for that case alone.

Judge FREAR. That would then depend upon whether the member of the bar so selected was a member of the court within the meaning of that act.

Senator BURTON. You can't say he is a member of a court in part and not in whole.

Judge FREAR. It is rather a nice point to say whether a member so chosen is a justice or simply acting as a justice.

Senator BURTON. You don't think that is a matter of doubt, do you?

Judge FREAR. In a case that came before us recently, able counsel argued very strenuously on that point.

Senator MITCHELL. Let me illustrate a case. Suppose, for instance, the court is convened to-day and one of the three judges is absent by reason of sickness or from any other cause, as the act says. The two remaining justices proceed to fill the vacancy by selecting a member of the bar. The case goes on and gets partly through. To-morrow morning one of the other original judges can not be present by reason of sickness or absence for any other cause. Now, can you fill that vacancy?

Judge FREAR. I presume that the third member of the court could fill that vacancy.

Senator MITCHELL. Suppose the case is still not finished the third morning and the remaining judge is killed in the night, or is sick, or went off on a trip, or is absent from any other cause. Now, I want to inquire, can not those two judges that have been called in from the bar fill that vacancy and thus eliminate the whole supreme court?

Judge FREAR. In regard to that I would say, first, that there would be a question as to whether those members of the court, if we may call them such, were within the contemplation of the statute.

Senator MITCHELL. What is your opinion on that subject?

Judge FREAR. Well, I think that I should—of course, this is offhand—the question has never arisen and will not be likely to arise, and if the act should be so construed the legislature could very quickly remedy the objection.

Senator MITCHELL. One of two things would happen: Either the two judges would have the right to fill the vacancy, or else the two judges sitting alone would try the case. In either case the supreme court is eliminated.

Judge FREAR. That is objectionable, no doubt. I think that perhaps the history of the act might have some bearing upon its construction.

Senator BURTON. It would explain the way in which it came about, but I—or, do I understand you to say that it is objectionable?

Judge FREAR. It is no doubt objectionable. The question is, Is there any better alternative? This provision is not altogether unique. I don't know the process cor-

responding to it in the States, but I know members of the bar are permitted to be called in in a good many of the States.

Senator BURTON. Can you designate?

Judge FREAR. I think Missouri, Indiana, Georgia, Arkansas, Mississippi, North Carolina, Kentucky, and Tennessee, and I believe the supreme court of Georgia, has held that the oath of the member of the bar was sufficient and that no additional oath was necessary as a member of the court.

Your committee calls attention to the following extracts taken from the testimony of Hon. Gilbert F. Little, present circuit judge of the fourth circuit, Hawaii, taken before your committee at Hilo, September 18, 1902:

Judge GILBERT F. LITTLE, being first duly sworn, testified as follows:

Senator MITCHELL. State your name, age, residence, and occupation.

Answer. Gilbert F. Little; age, 56; residence, Hilo; occupation, judge of the circuit court of the fourth circuit.

Q. How long have you held the position of circuit judge?—A. Since my appointment, June 5, 1900.

Q. Judge, are you acquainted with the system in vogue in this Territory of filling the vacancies on the supreme bench of the Territory?—A. Yes, sir.

Q. What is it?—A. Our statutes provide that in the event of a vacancy on the supreme bench through sickness, absence, interest, or other disqualification the attorneys in the cause may agree upon a member of the bar to fill the vacancy, or in the event of the attorneys not being able to agree, the remaining justices may select a member of the bar or a circuit judge to fill the place thus made vacant, and the person so invited proceeds to take his place and hear and assist in passing upon the questions involved without being sworn as a judge or justice of the supreme court.

Q. Does the person so selected serve for any specific time?—A. For that case only.

Q. When that case is finished he is recalled for the next case?—A. He or some one else, and the same operation gone through with.

Q. Suppose two vacancies on the same bench were to occur, would they call two lawyers?—A. Yes, sir; our books are full of such instances, one of which I call to mind (Brown v. Brown in 11th Hawaiian, p. 47).

Q. With those three gentlemen sitting upon the bench they would pass upon questions?—A. Yes, sir.

Q. Supposing to-morrow before the case is finished the chief justice is stricken ill, could the remaining two members of the bar continue with the case?—A. They could, and I think there is a case on record in our books, which I can not call to mind now, where one justice of the supreme bench was alone qualified to sit in a case. He called two members of the bar to sit with him. These two gentlemen filed the opinion of the court and the one justice upon the bench filed a dissenting opinion. I am not sure of this case, but I have it in mind that it is a fact.

Q. How long had you practiced law before you went onto the bench?—A. For twenty-five to thirty years.

Q. Where?—A. In Indiana, Washington, Kansas, and Hawaii.

Q. In your judgment, how do you regard this manner of filling vacancies?—A. If I were not a witness, I would say that it is infamous, but as a witness I would say that it is very deleterious to the best interests of the people generally.

Q. A very unwise system.—A. Yes, sir; and calculated to create dissatisfaction and distrust and cause very little weight or respect for the decisions of the Supreme Court in many instances.

Senator BURTON. I presume it is the practice with the justices to pass this privilege around to those of their choice?

A. I do not know about that, but if I were a lawyer in a case and there was a vacancy on the bench I should try to get my friend appointed. Of course he would not do anything wrong, but I would try to get him in.

Bearing upon this same question the committee begs to submit the following communication from Hon. Gilbert F. Little, present circuit judge at Hilo, Hawaii, submitted to your committee subsequent to his examination at Hilo:

HILO, HAWAII, October 21, 1902.

MY DEAR SENATOR: Somewhere among the first questions which you put to me after I took the stand to be examined by you during your recent visit in Hilo you asked me something like this:

"Suppose two vacancies on the supreme bench were to occur, would they call lawyers?"

As I remember, I told you that they would, and recalled to your mind the case of *Brown v. Brown*, in the 11 Hawaiian, at page 47, in which W. R. Castle, of the Honolulu bar, and Mr. Paul Neumann, of the same place, sat in place of Chief Justice Judd and Justice Frear, disqualified. In that case the opinion of the court was rendered by Mr. Paul Neumann and there was no dissenting opinion.

Then you asked me the further question:

"Supposing to-morrow, before the case is finished, the chief justice is stricken ill, can the two remaining members of the bar continue the case?"

I told you they could. I also called your attention to the fact, if I do not forget, that there was a case recorded in our books where two members of the bar wrote the opinion of the court and the only remaining justice upon the bench rendered a dissenting opinion. As I remember my evidence, I qualified it by saying that I was not quite sure, but yet in my opinion it was true.

Since that time I have found the case to which I referred. It is entitled "*Kahului Railroad Company, a corporation, v. Hawaiian Commercial and Sugar Company, a corporation, and John F. Hackfeld.*" The exceptions were taken from the circuit court of the first circuit, and the case was submitted to the supreme court September 29, 1898, and decided by them April 10, 1899. In that case Mr. Justice Whiting was the only member of the supreme court bench proper. He presided at the trial. A. G. M. Robertson, esq., of the Honolulu bar, sat in place of Chief Justice Judd, disqualified, and J. T. De Bolt, esq., of the same place, sat in place of Frear, justice, absent. Mr. J. T. De Bolt wrote the opinion of the court, which was concurred in by Mr. Robertson, and Mr. Justice Whiting delivered a dissenting opinion in the case. This case is to be found at page 749 of volume 11 of the Hawaiian Supreme Court Reports, and you can find it in the Supreme Court library in the basement of the Capitol at Washington.

My object in sending you this is simply to intensify the fact that those of us who have given the matter attention are in no sense overstating the facts even if they seem to be almost incredible, and I therefore submit them to you, either that you can make them an exhibit in support of my statement or as a reference where you can verify the statement if you deem it expedient to do so.

There can be no question, first, that all the members of our supreme court should be Americans; and second, that the statute should provide that if in the case of sickness, absence, or other disqualification on the part of any justice of the supreme court that the chief justice, or in case he be disqualified, the presiding justice, should be authorized to swear into office for that case some member of the circuit court bench, who, during that case should have all the rights, privileges, and power conferred upon the regular justices of the supreme court; or that the supreme court membership should be increased to five members, so that a quorum could not be broken by the sickness, absence, or disqualification of a member.

Mr. Justice Galbraith is practically the only American on the supreme bench. Mr. Justice Perry is a Portuguese born in the islands. Mr. Justice Frear was born in Oakland, Cal., and was brought to the islands when he was 2 years old, and has been here practically ever since. All his interests, all his family ties and family interests, social, financial, and personal, are measured by the same mental horoscope that is characteristic of any other native to the manor born.

With regards, I am, very respectfully yours,

GILBERT F. LITTLE.

HON. JOHN H. MITCHELL,

Chairman of the Subcommittee of the Committee on Pacific Islands and Porto Rico, United States Senate, Portland, Oreg.

Bearing upon this question we quote the following from the testimony of Hon. A. S. Humphreys, late circuit judge at Honolulu:

Senator BURTON. You spoke about how a vacancy in the supreme bench could be filled?

Judge HUMPHREYS. I am going to pass to that now. The supreme court consists of a chief justice and two associate justices. In case of the disqualification or absence of any justice thereof in any cause pending before the court, on the trial and determination of said cause his place shall be filled as provided by law.

Now, the law provided that in case any justice shall be prevented or shall be unable to attend, from sickness, absence, or any other reason (sec. 1170 of the Civil Laws of 1897), his place on the trial and determination of the said cause shall be filled by one of the circuit judges who has no connection with the suit, either as counsel or in his professional capacity, or by any competent and disinterested member of the bar of the supreme court thereunto appointed by the written request of the remaining jus-

tice or justices. So that if you have a cause pending before the supreme court involving a great amount of money and two of the justices are absent for any reason, the remaining justice can call in two members of the bar and they will constitute the supreme court of this Territory for the purpose of hearing your case, and from their decision no appeal can be taken.

I had my clerk run down the cases tried before the supreme court in Twelfth Hawaiian, and out of 64 cases decided 42 cases were decided by a court composed in part of gentlemen who were not members of the court except as they had been called in to determine a special case, and some of these cases were issues involving our relations with the United States, issues involving life and liberty, and some of the members of the bar who sat were young men right out of the law school.

Senator FOSTER. And no appeal can be taken from their decisions?

Judge HUMPHREYS. No, sir. In Thirteenth Hawaiian out of 121 cases reported 29 were decided by a court composed partly of men who were not regular justices of the court. Twenty-nine cases out of 121, something more than 20 per cent. In Twelfth Hawaiian the percentage decided by gentlemen other than the regular justices exceeds 66½ per cent.

Senator BURTON. And they were not really decided by men appointed by the President of the United States?

Judge HUMPHREYS. No, sir.

Senator BURTON. Suppose the supreme court meets one day and there are two vacancies and two men are called in to fill those vacancies, and then after one case is tried the third man, the only one left who was appointed by the President of the United States, is sick, can that vacancy then be filled?

Judge HUMPHREYS. That is a question that has never been raised, but I apprehend if it was raised they would unhesitatingly decide that they did have the power.

Senator MITCHELL. You suggest an amendment in that section?

Judge HUMPHREYS. I do, most decidedly.

In this connection we call attention to the following extracts from the testimony of Hon. George D. Gear, at present and for some years past one of the circuit judges in Honolulu:

Senator MITCHELL. Well, Judge, you are familiar with existing law in reference to filling vacancies on the supreme bench of this Territory, are you?

Mr. GEAR. Yes, sir.

Senator MITCHELL. What do you say to the committee in regard to the propriety and advisability of that system being perpetuated?

Mr. GEAR. I think the system is wrong, and always has been. I think not only it is wrong, but that it is contrary to the Constitution.

Senator MITCHELL. State briefly what the system is.

Mr. GEAR. The system is, Mr. Chairman, under the organic act they provided that vacancies—that the supreme court shall consist of a chief justice and two associate justices, provided, however, that a vacancy in the court may be filled as required by law. Now, under our law it provides that the court, when a vacancy exists, may fill the vacancy by the appointment of an attorney at law. In the law there occurs the word “justices” where one of them is disqualified, which has inclined the court to rule that the court can fill a vacancy even though there be two vacancies; that is, one judge can call in two attorneys.

Senator MITCHELL. Members of the bar?

Mr. GEAR. Yes, sir; two attorneys who have not been sworn and who are not sworn; no provision for swearing them.

Senator MITCHELL. When they take their seat are they sworn or not then?

Mr. GEAR. They are not sworn. The law provides for the calling in also of judges from the circuit court. The judges from the circuit court have not been called in lately, since I have been on the bench, to any extent. I have sat once, and at that time an attorney sat with me, Mr. Fitch, and a few days ago a question came up which required to be considered by the supreme court; two of the judges, Judge Frear, the chief justice, and Judge Galbraith, were absent on the mainland. Judge Perry called in two attorneys and constituted the court, although the court had adjourned until some time in the future, some time in October, I believe, and they sat as a court. That has been the system, and a system, I believe, that is contrary to law. I do not believe that an attorney should be allowed to sit as a judge who is not sworn as a judge. I think that the system is wrong.

Senator MITCHELL. Suppose a vacancy occurs by the absence of one of the three judges and the other two judges select a member of the bar to fill the vacancy, is that all that is done? Or do these judges suggest the name of this attorney to the governor and does he appoint him?

Mr. GEAR. No; they appoint him.

Senator MITCHELL. There is nothing in any Federal law, either general or the organic act, providing for the filling of vacancies, except the clause in the organic act that "Vacancies shall be filled as provided by law?"

Mr. GEAR. Not that I know of.

Senator MITCHELL. So that this clause in the organic act which says, in the case of a vacancy, the vacancy shall be filled as provided by law, refers to a Territorial law, does it?

Mr. GEAR. Yes, sir.

Senator MITCHELL. Well, now, is there any Territorial law that authorizes judges to fill a vacancy?

Mr. GEAR. The law was in force up to annexation.

Senator BURTON. Which is made in force now by the enabling act?

Mr. GEAR. Yes, sir.

Senator MITCHELL. Does that authorize the judges to call in members of the bar?

Mr. GEAR. Yes, sir.

Senator MITCHELL. So they are not appointed by anybody except the judges who select them, and they are not sworn as judges?

Mr. GEAR. Yes, sir; that is right.

Senator MITCHELL. You believe the system is unconstitutional, do you?

Mr. GEAR. I believe it to be unconstitutional.

Senator BURTON. Why?

Mr. GEAR. Well, in the first place, the judicial power is invested by the organic act in the supreme court; the court, I believe, must consist of two of the judges, at least. I believe that two of the judges constitute a quorum and may act; and I believe if two of the judges are disqualified or absent that there is no provision.

Since your committee left Hawaii certain proceedings occurred in the supreme court of that Territory which practically illustrates the conditions there, as will appear from the following letter from Hon. Reuben D. Silliman, former circuit judge in Honolulu, now a prominent practicing attorney there and at present in Washington in attendance on the Supreme Court of the United States.

WASHINGTON, D. C., December 5, 1902.

DEAR SENATOR: Answering your request for information as to the make-up of the supreme court of the Territory of Hawaii at the recent hearing of what are popularly known as the "Fishery-right cases," I beg to advise you that the chief justice (Frear) and Justice Perry were disqualified, and the remaining member of the court (Justice Galbraith) "requested" Circuit Judges Gear and Robinson to sit with him.

A hearing was commenced and had been proceeded with for an hour or more when Circuit Judge Gear announced that he had been thinking of the right of himself and Circuit Judge Robinson to sit with Associate Justice Galbraith, neither of them having been commissioned or sworn as justices of the supreme court, but having been simply "requested" by Justice Galbraith to hear the appeal with him.

He said he believed that the tribunal so constituted was an unlawful tribunal, having no authority or jurisdiction to render a judgment upon the pending appeal; that so believing, he could not sit and take part in the hearing thereof. He then arose and left the bench.

After his withdrawal Justice Galbraith and Judge Robinson held a consultation and announced that they were of the opinion that the court was lawfully constituted and they "requested" Circuit Judge De Bolt to come in and hear the appeal. He came in and the arguments were repeated, and in due course of time a decision was rendered, a memorandum of which is inclosed.

The supreme court thus constituted is a court of final resort in all cases save such as embody a Federal question in the record.

Yours, very truly,

REUBEN D. SILLIMAN.

HON. JOHN H. MITCHELL,

Chairman Subcommittee of Senate Committee on Pacific Islands and Porto Rico.

Mr. E. S. Gill, a Honolulu member of the bar, in his testimony before your committee said:

Senator MITCHELL. Before leaving that, what do you think of the method of filling vacancies on the supreme court of this Territory?

Mr. GILL. It is a method that ought to be abolished. It is often jocularly remarked here that we have a supreme court composed of one justice and two lawyers here. I think it is a very bad system.

It is proper, however, to state in this connection that this mode of filling vacancies in the supreme court meets with favor not only on the part of Chief Justice Frear, but with some other prominent members of the Hawaiian bar, notably Hon. W. O. Smith, formerly attorney-general of the Territory, and at present president of the bar association in Honolulu. Mr. Smith testified on this subject as follows:

W. O. SMITH, recalled.

Senator MITCHELL. Mr. Smith, what do you think of the practice of filling vacancies in the supreme court?

Mr. SMITH. The law was somewhat misunderstood as presented to you. There are three judges of the supreme court. It happens commonly from relationship, interest, or some other cause that one is disqualified. The law provides that every litigant is entitled to a full court of three judges. In case of the disqualification of one of the supreme court, a circuit court judge may be called in to sit with the supreme court judges.

Senator MITCHELL. How about disqualification for absence?

Mr. SMITH. Disqualification for absence or illness or being away from the country.

Senator MITCHELL. If a judge remains away for sickness or any other cause, he could remain away voluntarily if he wanted to?

Mr. SMITH. It happens if he is interested from business relations in a litigation he is disqualified from interest. For relationship to the third degree of consanguinity under our statute he is disqualified. A circuit judge may be called in, not necessarily from the same circuit. Frequently the circuit judge from the other islands is called in—Judge Little and Judge Eddings. It often happens that the judges of the circuit court are also disqualified by having heard cases before. The provision is a proper one that a judge having tried a case should not sit on appeal in the same case. So in order to prevent delay a provision is in the statute, and has been there a good while, that, failing to obtain a circuit judge, any member of the bar could be called in.

Senator MITCHELL. Right there, suppose a vacancy on the supreme bench occurred. They fail to get a circuit judge, but call in a member of the bar. Then if the judges find they are disqualified they can get two members of the bar.

Mr. SMITH. Yes; but there is some ability in the members of the bar. All knowledge of law is not confined to the bench, and the provision in the statute is to prevent the failure of justice.

Senator MITCHELL. Suppose I am not a circuit judge, but a member of the bar. I am called in. I am not sworn.

Mr. SMITH. You can not be a circuit judge without being sworn.

Senator MITCHELL. But suppose I am not a circuit judge. The circuit judges are disqualified. It is necessary to go to the bar. I am a member of the bar. I am selected to fill the vacancy. Am I sworn?

Mr. SMITH. The practice is not to take an additional oath. Every member upon being admitted has to take an oath.

Senator MITCHELL. I understand that. If I take the vacancy in the supreme court, am I sworn as a judge?

Mr. SMITH. No, sir; that has not been the practice.

Senator MITCHELL. Not the practice?

Mr. SMITH. I think, under our circumstances or the same circumstances anywhere else, it is a good practice.

Senator MITCHELL. It don't strike me as good.

Mr. SMITH. It is better than something worse; better than having justice delayed, not having cases disposed of. Rather than have a failure of justice when the circuit judges are not available, it is better to call in members of the bar.

Your committee recommends that the organic act be so amended as to put an end to this mode of filling vacancies on the bench of the supreme court of the Territory of Hawaii.

THE RIGHT OF APPEAL AND WRIT OF ERROR.

In section 86 of the organic act providing a government for the Territory of Hawaii, approved April 30, 1900, it is provided, among other things, as follows:

The laws of the United States relating to appeals, writs of error, removal of causes, and other matters, and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii.

Under this provision no appeal or writ of error can lie to the Supreme Court of the United States from any judgment or decree of the supreme court of the Territory, except in cases wherein a Federal question is involved. Your committee found widespread complaint in the Territory against this lack of right upon the part of litigants to an appeal or writ of error. A person residing in any of the States of the mainland, having a claim against a citizen of Hawaii in which no Federal question is involved, can not bring a suit in the Federal district court of the Territory by reason of diverse citizenship, as it is not a controversy between citizens of different States. He is therefore compelled to bring his suit in the Territorial circuit court, from the decision of which he has a right to an appeal to the supreme court of the Territory. The decision of that court, however, is final, notwithstanding the amount of money or property involved. It is believed litigants should have a right to an appeal to the Supreme Court of the United States from a final judgment or decree of the supreme court of the Territory where the amount involved exceeds \$5,000.

As bearing upon this question, your committee attracts attention to the following testimony of Hon. A. S. Humphreys, late circuit judge, and now a prominent member of the bar in Honolulu. We take the following extracts from his testimony before the committee, September 9, 1902.

I want to call your attention, Senators, to the section of the judiciary [we are speaking of the organic act.] The laws of the United States relating to appeals, writs of error, removal of causes and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii.

Such a law does not exist in any other Territory of the United States. The reason assigned for adopting this peculiar provision and applying it to the Hawaiian Islands was on account of our distance from the mainland and the delay and expense there would be in appeals.

In providing a government for the Philippines they provided that appeals shall lie to the United States, and should be so here. It will give a sense of security to investments here and, I think, would tend largely to encourage Americans to invest here.

The following is an extract from the testimony of Judge Gilbert F. Little, taken at Hilo, Hawaii, September 18, 1902:

Q. Is it true, Judge, under the existing laws as propounded in this Territory, that there is no appeal to the Supreme Court of the United States except in constitutional questions?—A. Yes, sir; it was a mistake more than anything else on our part at the time the act was under consideration at Washington, and it was the design on the part of those who were acquainted with the court, but that is the fact. Under the old régime they did things here just as they pleased. You will find that justices of the supreme court would make suggestions to the legislature, and did it very decidedly, and in our circuit courts you will find from the old statutes, which are still in force, that we have greater power than have courts of the like jurisdiction in the United States.

Senator BURTON. It is the same way as to other offices of the government?

A. Yes, sir; for instance, the attorney-general's office is very extensive in its jurisdiction and power. Under the form of government during the Dole oligarchy—it was an oligarchy and nothing else—there was practically a one-man power. The attorney-general was a member of the cabinet, who substantially directed the appointment of the circuit judges, marshal, deputy marshal, and sheriffs.

Q. Why do you call it an oligarchy?—A. Because Dole and two or three others ran the government. If you gentleman could have lived here at the time I came you would have been horrified at the conditions that existed, and many of which are still in existence. If the same conditions had been forced upon the people of the United States and the same treasonable conduct made manifest, any man connected with such transactions would have been hanged. Under the provisions of the organic act the circuit judges do the best they can to follow the law, but Perry and Frear, of the

supreme bench, are not Americans in sentiment or sympathy. Frear was born in the United States, but came here when quite young, and except when at school has resided here during his entire life. Perry is a native to the manor born. They have the power under the law, without the right of review in the United States Supreme Court to modify, review, affirm, or reverse all appeals from the subordinate courts. If you will take the dissenting opinions filed by Justice Galbraith and examine the law upon which some of their decisions were predicated you will probably get more information in less time than from anything I could say.

Q. Would you recommend, Judge Little, an amendment in the organic act so that the right of appeal should be extended to the Supreme Court of the United States?—A. Most certainly.

Q. How far would you extend it?—A. I would extend it through the court of appeals, the same as in the case in other Federal Territories. Especially down here we ought to have the decisions of the supreme court under present conditions reviewable by the Supreme Court of the United States.

Senator BURTON. Is there any reason why the same rule should not be applied here as in other Territories of the United States?

A. None at all.

Q. And there is every reason why it should?—A. Yes, sir; we believe down here in one country and one flag. We believe in one Constitution, and our supreme court has rendered decisions practically stating that the Constitution only came here in sections; that it did not "come in all its fullness." The Americans here have little respect for such decisions, or for the men who make them, and we ought to be allowed to have all our important questions subject to review by the United States Supreme Court, the same as in other Territories. * * *

Senator MITCHELL. Judge, in your official capacity, traveling around from place to place, do you consider yourself pretty well acquainted with the sentiment on public matters that have been discussed from time to time?

A. Well, I am a Republican and an American by birth, and I have very decided views on what we ought to have and the rules of government that should obtain. All the American residents in this Territory are alike in that respect—the sentiment that we should have an American form of government run by Americans and American laws. With us the Constitution and the flag mean something. I mean the sentiment of the best people generally on these islands is that way. The old régime is loath to let go. They are like the little boy holding on behind a carriage, he will not let go unless you whip him off.

As bearing upon the question of the right of appeal, the committee quotes the following from the testimony of Hon. George D. Gear, one of the circuit judges in Honolulu:

Senator MITCHELL. Now, Judge, in what cases can litigants take a case to the Supreme Court of the United States from the final decision of the supreme court of the Territory?

Mr. GEAR. That is a question that the courts have battled over. It is a question of construction of the organic act. The organic act provides that appeals shall lie from said courts where a Federal statute is to be construed or a treaty; otherwise the decision here is final.

Senator MITCHELL. There is no appeal, then, or writ of error from the decisions of the supreme court of the Territory of Hawaii, no matter how much is involved, unless the construction of a United States statute or a treaty is involved, or a constitutional question?

Mr. GEAR. No, sir; or a constitutional question.

Senator MITCHELL. What do you say as to the propriety of that system as applicable to this Territory or any other?

Mr. GEAR. I do not see why an exception should be made for this Territory in that respect.

The following is the testimony of Edwin S. Gill, a member of the Hawaiian bar, on this subject:

Senator MITCHELL. What next, Mr. Gill?

Mr. GILL. There is another thing that I would particularly call your attention to, which is even more important than the subjects I have mentioned, and that is that Congress amend section 86 of the organic act of Hawaii so as to provide for appeals from the supreme court of this Territory to the United States Supreme Court. In all the history of the United States, until the Territorial government of Hawaii was provided for, never was there a Territory created that was not granted the right

Congress to appeal from decisions of the Territorial supreme court to the Supreme Court of the United States.

Senator MITCHELL. All over a certain amount—\$5,000, I believe.

Mr. GILL. Originally \$2,000; afterwards increased to \$5,000. From the original judiciary act of 1789, granting this right of appeal to the Northwest Territory, every Territory created by Congress in the whole history of the country was given this right, excepting Hawaii. Section 35 of the Porto Rican act provides for appeals to the United States Supreme Court, "the same as from other Territories." Chapter 51 of the Alaskan code, sections 504-508, provides for appeals to the circuit court of appeals, and, in certain cases, from there to the United States Supreme Court. And I do not believe it was the intention of Congress to withhold a right from the people of Hawaii that has been granted to the people of every other Territory in the whole history of the United States.

Mr. Chief Justice Frear testified as follows upon the question as to the propriety of providing for appeals and writs of error, under certain limitations, to the Supreme Court of the United States:

Mr. SILLIMAN. Are you in favor of appeals from the supreme court of this Territory under a limit, for instance, of \$5,000?

Judge FREAR. I can not say that I am. I think that possibly appeals might be preferable, to have appeals in some cases, if the line should be drawn so as not to work hardship. I don't know; possibly that would be a proper way to draw the line. I can say upon that point—it is a rather delicate point, as it relates from appeals from my own decisions.

Senator BURTON. That has nothing to do with it. Just treat the judge as being absent and consider the principle involved.

Judge FREAR. I can say that that question was considered very carefully by the Hawaiian Commission and gone into by the committees of Congress.

Senator BURTON. It was made this way on recommendation of the Hawaiian Commission?

Judge FREAR. It was. I can say I myself at that time was a member of the Commission, and so with the other members we understood that a majority of the bar preferred that system—the present system. There are several things to be considered. In the first place, the judiciary here is formed and organized on State lines—that is to say, Congress formed the judiciary unlike that created in any other Territory at any time. There is a Federal court here as well as the local courts. The Federal court has jurisdiction on Federal cases. The supreme court has jurisdiction in both questions, Federal and local. Now, in all cases in which Federal questions are involved before the local supreme court of the Territory—

Senator BURTON. There is an appeal now.

Judge FREAR. Writs of error may be taken to the Supreme Court of the United States. Thus it is in local cases only in which the decisions of the Territorial supreme court are final.

Senator MITCHELL. Suppose this case. For instance, a citizen of Oregon has a claim against a citizen of the Territory of Hawaii in which no Federal question is involved. Now, under the rulings and well-settled doctrine of the Supreme Court of the United States, he can not go into the Federal court, because it is not a controversy between citizens of different States, but it is a controversy between a citizen of a State and a citizen of a Territory. He is compelled, therefore, to bring his suit in the Territorial courts, not in the Federal court, whether it be \$50,000 or \$500,000 that is involved.

Judge FREAR. I presume so. I think it might not be unwise to have some qualification in such cases.

Senator MITCHELL. It struck me that a man, under such circumstance, ought to have his case determined by a higher court.

Judge FREAR. I think it might not be out of place to say that appeals are not allowed now from the supreme court of other Territories to anywhere near the same extent as formerly. I remember recently reading a decision by one of the circuit courts of appeals construing a question from Congress, as to whether an appeal lay, as an appeal had arisen in such cases. In the Territory of New Mexico argument was introduced to allow the supreme court of the Territory to determine cases finally. The circuit court of appeals saw no objection. I believe in the State of Oregon there are only three members, and there are three members here. Then, again, this is what our people have been used to for fifty years.

Senator BURTON. Anything else?

Mr. DAVIS. I would like to ask the chief justice a question. Do you think it would be more satisfactory to have the judges elected?

Judge FREAR. Undoubtedly not.

Mr. DAVIS. They are elected in Oregon, are they not?

Judge FREAR. I think they are.

Mr. DAVIS. You would not be in favor of electing the judges?

Judge FREAR. I would not.

Mr. DAVIS. You were in favor of a life tenure for the judges?

Judge FREAR. No, sir; I opposed it.

Mr. DAVIS. Who favored it on the Commission—Dole?

Judge FREAR. I would prefer that he would speak for himself.

Mr. DAVIS. Wasn't the provision put in?

Judge FREAR. It was inserted by a majority. I was not in favor of it.

Mr. DAVIS. You would not be in favor of electing the judges?

Judge FREAR. No; I would not.

Mr. SILLIMAN. What was the view of the Commission in regard to the third provision or the twenty-fifth section of the judiciary act, permitting writs of error from the supreme court to the United States from States? Was it the opinion that a writ of error could be sued out where it was not the State but the Territory involved?

Judge FREAR. So I understand.

Mr. SILLIMAN. Did you have the case of *Miners v. The State of Iowa*, 12 Howard? Is the statute of the Territory like the statute of a State in that respect?

Judge FREAR. No; that would not apply, I think, to the Territory of Hawaii.

Mr. SILLIMAN. Well, would it apply just as much as this rule of cases in the ordinary State? You can not remedy a cause where it is brought between citizens of a Territory and a State in the Federal courts?

Judge FREAR. Of course that question has not arisen here at all. It has not been passed upon; but I can say there is a chance for argument at least. The distinction is perceptible between those.

Mr. SILLIMAN. If that decision was made there would be no way of reviewing decisions of this court.

Senator MITCHELL. Our attention has been called to this and we will look into it.

Mr. L. A. THURSTON. Has your attention been drawn, Judge, to the expense incident to appeals from the Federal court to the circuit court of the district of California?

Judge FREAR. It has.

Mr. THURSTON. Can you say whether or not the expense of appeals to the supreme court cuts any figure?

Judge FREAR. I have understood that appeals have been very expensive, and it was because of the distance, resulting both in delay and expense. That induced the Commission, and, I think, Congress, to make this special provision. It is a practical denial of justice to the poor man in many cases.

Mr. THURSTON. Do you know of the amount of the expense in any case carried up to appeal?

Judge FREAR. I have heard in the Wilder Steamship Company case the expense was \$10,000.

Mr. THURSTON. Do you know of any other cases?

Judge FREAR. I have heard of only one other case—I don't remember the name of it—in which the amount for simply transcribing the record was two or three times higher than the same amount of printing would cost here.

Senator MITCHELL. It is optional with the defeated party as to whether he shall take an appeal or a writ of error?

Judge FREAR. Oh, yes. I may say, now that your remark suggests it, that in calling in substitutes on the supreme bench it is optional with counsel as to whether they shall be called in. They generally prefer it.

Subsequently Mr. Chief Justice Frear supplemented his testimony by a letter, of which the following is a copy:

HONOLULU, HAWAII, *September 25, 1902.*

Hon. JOHN H. MITCHELL,

Chairman of the Subcommittee of the Committee of the Senate on Hawaii.

SIR: Will you kindly allow me to file the following as supplementary to my oral statement made yesterday before the subcommittee:

1. At the hearing yesterday I was asked as to the policy of having decisions of the Territorial supreme court final in cases in which the parties were of diverse citizenship, but in which no Federal question was involved, and I replied that I thought it might be well to allow appeals in such cases. On further reflection I think a better course would be to allow such cases to be brought either in the Federal court or in the Territorial court, and, if brought in the latter, to be removed to the Federal court. They could then be taken up on appeal from that court just as other cases

may be. This, I believe, was the intention of the commission which drafted the organic act. See section 86 of that act, wherein it provided that—

"The laws of the United States relating to appeals, writs of error, removal of cause and other matters and proceedings, as between the courts of the United States and the courts of the several States, shall govern in such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii."

But it has been held that this provision did not go far enough to permit removal of such cases from the Territorial courts to the Federal court.

A strong reason why this would be the better course is that it would be in harmony with the general plan of Congress to organize the courts of Hawaii on the same basis as in the several States—that is, with distinct Federal and Territorial courts—and it would make applicable to Hawaii all the decisions and law upon the subject of removal of causes. The decisions of the Territorial supreme court would then be final in local cases only.

As to the policy of allowing the decisions of the Territorial supreme court to be final in such cases, see *Aztec Mining Co. v. Ripley* (53 Fed. Rep., 7).

For decisions construing the organic act of Hawaii as to the finality of decisions of the Territorial supreme court, see *Ex parte Wilder's Steamship Co.* (183 U. S., 545); *Wilder's Steamship Co. v. Hind et al.* (108 Fed. Rep., 113); *Hind et al. v. Wilder's Steamship Co.* (13 Haw., 174).

2. In my opinion the salaries of the circuit judges of the first circuit should be increased from \$3,000 to \$4,000 a year. The latter was the amount paid before the organic act took effect. It was reduced by Congress so as to make the salaries in the first circuit uniform with those in the other circuits.

The judges in the first circuit have a great deal more to do than those in the other circuits, and the cost of living is higher in the first circuit—that is, in Honolulu.

Four thousand dollars is low enough. The cost of living in Honolulu is about one-third higher than in most parts of the United States. It is difficult to get desirable men to serve at \$3,000.

Very respectfully,

W. F. FREAR.

APPEALS AND WRITS OF ERROR FROM THE SUPREME COURTS OF PORTO RICO AND THE PHILIPPINES ARE ALLOWED.

The act temporarily to provide revenue and a civil government for Porto Rico, and for other purposes, approved April 12, 1900, has in section 35 the following provision upon the subject of writs of error and appeals to the Supreme Court of the United States:

That writs of error or appeals from the final decision of the supreme court of Porto Rico and the district court of the United States shall be allowed and may be taken to the Supreme Court of the United States in the same manner and under the same regulations and in the same cases as in judgments of the supreme courts of the Territories of the United States; and such writs of error and appeals shall be allowed in all cases where the Constitution of the United States or a treaty thereof, or an act of Congress brought in question, and the right claimed is denied; and the supreme and district courts of Porto Rico and the judges thereof may grant writs of habeas corpus in all cases in which the same are grantable by the judges of the district and circuit courts of the United States. All such proceedings in the Supreme Court of the United States shall be conducted in the English language.

The act providing for the administration of affairs of civil government in the Philippine Islands, and for other purposes, approved July 1, 1902, provided in section 10 as follows:

That the Supreme Court of the United States shall have jurisdiction to review, revise, reverse, modify, or affirm the final judgment or decree of the supreme court of the Philippine Islands in all actions, cases, causes, and proceedings now pending therein or hereafter determined thereby, in which the Constitution or any statute, treaty, title, right, or provision of the United States is involved, or in causes in which the value of the controversy exceeds twenty-five thousand dollars, or in which the title or possession of real estate exceeding in value the sum of twenty-five thousand dollars, to be affirmed by the oath of either party or other competent witnesses, is involved or brought in question; in such final judgments a decree may and can be reviewed, revised, reversed, modified, or affirmed by said Supreme Court of the United States from appeal or writ of error by the party agreed in the same manner, to the same regulations, and by the same procedure, as far as applicable, after the final judgment or decree of the circuit courts of the United States.

Your committee earnestly recommends a change in the organic act permitting appeals and writs of error the same as in other Territories. This is especially important in view of the manner in which the organization of the supreme court of Hawaii is changed from time to time.

NUMBER OF JUDGES IN HONOLULU—FIRST CIRCUIT.

Your committee made careful inquiry into the necessity for the present number of circuit judges in the city of Honolulu, first circuit, and a considerable amount of testimony concerning this subject was taken.

The testimony showed a very decided difference of opinion, not only between the judges and ex-judges of this court but among the members of the bar. Two of the present judges, Judge Gear and Judge Robinson—there was a vacancy in the third judgeship while your committee was in the islands—are in decided conflict in their testimony on this subject. Judge Gear being of the opinion that two judges could easily do all the business and have time to spare, provided that each judge could hold court at the same time, which, owing to some peculiar anomaly in the law relating to the subject, can not be the case now, while Judge Robinson insists three judges are absolutely necessary. The late Circuit Judge Humphreys, who occupied one of the positions some two years and who resigned a few months ago, agreed in his testimony with Judge Gear that two judges were all that were necessary; while ex-Judge Silliman agreed with Judge Robinson. The bar association of Honolulu, by resolution submitted to your committee (see Appendix), strongly insisted on the necessity for the three judges. (For resolutions and testimony bearing upon this subject see Appendix.)

In view of the conflict of testimony on this subject, and of the fact that the bar association have strongly insisted on the necessity of three judges, your committee is not inclined to recommend any reduction in the number of judges.

THE COFFEE INDUSTRY.

While heretofore sugar has been the principal agricultural product of Hawaii, it is nevertheless a fact that the islands are capable and admirably fitted by area, character of soil, and climate of producing a diversity of agricultural products, and one of the most important of these, and which can be developed into one of the most valuable, is coffee. The coffee, moreover, produced in these islands is of a very superior flavor. Under the protection given this industry under the monarchy it became one second only in importance to that of sugar.

The monarchy imposed a prohibitive duty of 7 cents per pound on foreign coffee, but with the changes in government and the withdrawal of that protection the coffee industry languished, until at present less than one-half of the coffee formerly produced in Hawaii is now grown, and, as will be seen from what follows in this report during that period when the production of coffee in these islands was a profitable industry sufficient quantities of machinery were imported and enough coffee mills erected on the islands, nearly all of which are yet in good condition, to utilize and care for more than ten times the present crop. The total exportation of coffee from Hawaii for the fiscal year ending June 30, 1901, was 2,562,200 pounds, or about 25,000 bags of 100 pounds each, and the value of which, as estimated by the custom-house, was \$304,606, although this amount was not realized by shippers, the estimated value amounting to an average of nearly 12 cents per pound.¹

The exportation the past year has been much less, only 1,210

pounds—estimated custom-house value, \$126,644—although it is estimated that with proper protection, either by a duty on foreign coffee or a bounty of 3 or 4 cents on the production of the islands, they are capable of producing as much as 400,000 bags of coffee of 100 pounds each, or 40,000,000 pounds, which at 12 cents per pound would amount to \$4,800,000, or 12½ per cent of the total amount (\$60,000,000) paid by the United States annually for coffee.

Bearing upon this subject, your committee begs attention to the following memorial presented to the committee by the coffee planters and others interested in coffee culture at Holualoa, Kona, on the island of Hawaii:

HOLUALOA, KONA, HAWAII, September 22, 1902.

Hon. J. H. MITCHELL,
Hon. J. R. BURTON, and
Hon. A. C. FOSTER,

Subcommittee of the United States Senate Committee on Pacific Islands and Porto Rico.

SIRS: The undersigned coffee planters and residents of North and South Kona, island of Hawaii, beg to submit for your consideration the following memorial on the condition of the coffee industry, and earnestly invite your attention to our need of assistance in the way of protection, and ask for a duty or its equivalent of 3 cents a pound.

Hawaiian coffees are sold in the market in competition with the highest grades of mild coffees produced in Mexico and the Central American States. While all coffees have been affected by the overproduction of low-grade coffees in Brazil, the superior grades of coffee produced in the Central American States, Porto Rico, and Hawaii do not come into direct competition with the low Brazilian grades, yet they have fallen very materially in price in the last few years as a result of the immense overproduction of Brazilian coffees. Although there is a large and increasing surplus of Brazilian grades in the markets of the world, the stocks of mild coffees have not accumulated, which distinctly shows that these grades are capable of considerable increase of production.

The districts of North and South Kona have been producing coffee for a great many years, and the industry has been the mainstay and the money crop of the bulk of the population. The plantings are mainly in small holdings. In consequence of the recent low price of coffee, about one-half of the area in coffee has been neglected and some abandoned. At the present time a great many of the population are suffering on account of the low price of coffee.

The coffee industry is capable of indefinite extension on these islands, and appreciating this fact, the old Hawaiian government gave the industry all the encouragement it could, by a duty of 6 cents a pound, and exempting coffee plantations and machinery from taxation for ten years. As a consequence of this encouragement a great many buildings in the industry, and great quantities of machinery were imported and mills erected, until at the present time there is sufficient machinery on the islands to take care of ten times the present crop.

The total exports of coffee from Hawaii for the fiscal year ending June 30, 1901, was 25,622 bags of 100 pounds each, of a value of \$304,606, or nearly 12 cents per pound. This was the custom-house valuation, and the values were based on what exporters expected to receive, and it is undoubtedly greatly in excess of what the shipments realized. The figures for the last period are not known, but they will show a great falling off, and emphasize the great effect low prices have on the production.

Hawaii and Porto Rico both have produced twice the crops they now produce, and some protection would revive the industry in these countries, which are at present producing 5 per cent of the entire consumption of the United States, and as the importations from Brazil of low grades of coffee are 80 per cent of the entire importations, it follows that Porto Rico and Hawaii are now producing 25 per cent of the importation of mild or superior grades of coffee. Very little Porto Rican coffee comes to the United States, by reason of better markets in Europe, and recent dispatches state that the President, on September 6, proclaimed an agreement entered into with the Government of France on August 22 last, extending an important trade advantage to Porto Rico by the admission of the coffee produced on that island to the French markets at the minimum tariff rate.

Coffee is about the only industry that is capable of extension on the islands of Hawaii that can be taken up by the small farmer and family of limited means, and the past and present productiveness proves that large crops can be raised here, and

with a small amount of protection the industry would be remunerative, and be the means of benefiting all those who have small holdings on the islands.

The United States are now paying out over \$60,000,000 annually in the purchase of coffee, and it is the only great agricultural industry that the newly acquired American territory can produce in very greatly increased quantities that has no protection. Coffee is now produced in countries that have cheap labor and a depreciated currency, and in return for the immense sums annually paid to these countries in the purchase of coffee the United States are receiving in return only a fraction of the trade of these countries. As instance, Brazil, for the fiscal year ending June 30, 1901, exports from the United States over \$11,000,000 and imports into the United States over \$70,000,000.

We on Hawaii, under American rule and higher standards of living and higher paid labor, are unable to compete with the great coffee-producing countries without some protection, and we therefore repeat our request for assistance in the way of protection, and ask for a duty or its equivalent of 3 cents a pound. The Philippines, Cuba, Porto Rico, and Hawaii can produce all the coffee required for the consumption of the United States, and all that is necessary to achieve this result is the imposition of a high duty on coffee. This would at present, and for some time to come, raise the price very little to the consumer on account of the great overproduction of coffee in Brazil, and in a very brief period there would be a sufficient home production of coffee of a superior grade.

We are, very respectfully,

WILLIAM W. BRUNER,
ROBERT WALLACE,
WALDEMAR MÜLLER,
J. E. HIME,
JOHN HIND,
ALICE F. BEARD,
THOMAS C. WHITE,
MRS. ISABELLA McDUGAL,
Committee.

SOUTH KONA AGRICULTURAL CO., LTD.,
Per G. W. McDUGAL, Manager.
W. J. YATES.
H. BRYANT.
FRANK R. GREENWELL.
JAMES CONAN.
J. A. MAGUIRE.
R. O. WOODS.
H. H. SMYTH.
GEO. CLARK.
JOHN GREIG.

As throwing light upon the coffee industry of the islands, your committee calls attention to the report of William C. Stubbs, special agent of the Secretary of Agriculture, dated Audobon Park, New Orleans, La., December 15, 1900 (Ex. Doc. 368, House of Representatives, second session, Fifty-sixth Congress, page 54).

COFFEE (*Coffea arabica*.)

Coffee has become well naturalized in many places on the islands of Hawaii, Kauai, Maui, and Oahu. It was first introduced in 1823 by Mr. Marin, who established a small plantation on the island of Oahu. It was again introduced by Lord Byron in 1825, from Rio Janeiro. Its cultivation soon spread over the above-mentioned islands until a large number of plantations were established (mainly on Kauai and Hawaii) which promised excellent results. But the coffee blight, due to a woolly coccus, suddenly made its appearance after the rainless winter of 1855 and 1856 and gave a decided check to the expanding industry. From the punctures of this insect exuded a sweet gummy substance, which furnished a nidus for the spores of a black fungus, patches of which soon appearing upon the leaf and stem impede respiration and destroy the vigor of the plant. The rains drive the insect in colonies from the plant to its roots under the ground, where they remain until dry weather, when they are again borne to the leaves by a small red ant.

A few years after the appearance of this insect many plantations were cut down and planted in sugar cane. The insect disappeared and the blight abated. A fresh

impetus was given to the reestablishment of plantations, which reached fair proportions and were yielding profitable results until the recent low price of coffee and the comparative high value of sugar suspended further planting and even induced many to plow up their coffee bushes and plant their lands in sugar cane. The plant is, however, a decided success on the islands, the trees attaining early maturity and bearing heavy crops. (Pl. XI, fig. 1.) Coffee is grown on the four larger islands, but production has reached a commercial basis only on Hawaii, where there are four main districts, viz, Puna, Olaa, Kona, and Hamakua. It is impossible to ascertain the exact acreage now under cultivation or the amount and value of the annual crop produced. It is estimated that at least 15,000 to 20,000 acres are now under cultivation. The coffees consumed on the islands are chiefly home grown, and therefore the amount exported represents an uncertain part of production. The exports for 1897 were over 337,158 pounds, valued at \$100,000.

The coffee tree requires about four years to reach maturity and produce profitable crops. (Pl. XX, fig. 2.) Had not whole acres been uprooted and replanted in the more remunerative sugar cane, the total crop at present would be larger than that of 1897, since many young trees were then not bearing. The crop of 1899 was the largest on record, but low prices caused by overproduction have shorn it of profit. The industry is in the hands of men from many countries—the German, Portuguese, American, English, Chinese, and Japanese. Plantations were inaugurated mainly by Anglo-Saxons, but some of them have been abandoned for the dominant industry of the islands—sugar. The Portuguese and Japanese have occupied some of them and are now the chief laborers in the coffee fields.

Some coffee planters have been and are now successful. Others have failed. The causes of failure are lack of capital to carry a plantation to the bearing age, and want of experience and intelligence in the cultivation of this crop. Just here it may be remarked that coffee under proper conditions has never received scientific assistance, and hence a most important and worthy field for investigation by the experimental station soon to be established on these islands.

It is asserted that natural conditions of soil, elevation, and climate justify the prevailing opinion that coffee growing can be made a permanent profitable industry of the islands. Whether this industry will be developed in the future, along large plantation lines as in other tropical countries, or upon small farms with other crops, is yet uncertain. Experience has taught the wisdom of large plantations, enjoying a steady supply of labor, and providing the best mechanical devices for cleaning and grading. But the cotton, sugar, and rice plantations are rapidly giving away to the cotton, sugar, and rice farms with neighborhood central gins, mills, and factories owned by corporations of capital, which will buy or work the entire products of the farms and convert them into merchantable forms.

This has been largely accomplished in the cotton, sugar, and rice districts of Louisiana, and I see no reason why a similar course can not be pursued in the coffee industry. In fact, thorough study of the conditions prevailing in Hawaii force us to the conclusion that the fullest development of this industry can best be obtained by disintegration and division of the prevailing large coffee plantations into small farms, each owned and cultivated by an intelligent farmer, and with an independent central mill in each section to prepare the berries for market, at which the products of each farm can be handled, either by direct purchase or a regular charge for cleaning and grading.

Since the altitude for coffee planting begins where sugar cane ceases to be profitable, it has been suggested that a combination of the two industries might be feasible. The labor required by the latter might at times be profitably spared for the former. There are several successful examples of this union which would indicate the truth of this suggestion.

The coffee of the islands has a marked flavor and aroma, and pure Kona is said to be superior in every way to Mocha, or Old Government Java, and selected samples sold abroad have brought prices which attest its high quality. It is therefore expedient to establish an intelligent culture of this berry in order that this deserved reputation may be maintained.

It is not to be understood that enormous areas with large volumes of shipments can be had in Hawaii. The lands suitable to coffee culture, like those adapted to sugar, are exceedingly restricted in area, and hence, at the best, only limited quantities can be produced. But the present area and output can be largely increased, and it is the part of wisdom of the economists of this country to determine how this can best be accomplished.

It is a matter of regret that the interest in coffee growing has greatly decreased in the last few years. The low price of coffee everywhere, together with the scanty and high value of labor, have checked the usual annual plantings, and now attention

paid to the bearing trees only. The area under cultivation instead of being extended is being decreased rapidly by the transferring of many of the Olaa coffee plantations into vast sugar estates.

When sugar falls in value and coffee returns to its usual price, then perhaps another and more permanent impetus will be given this industry. The commissioner of agriculture for the islands has recently introduced and disseminated over the islands a large number of Liberian coffee plants, which are said to be blight proof. However, the danger of blight is now reduced to a minimum, due to the introduction of parasites which have destroyed the insects causing the disease.

This is one of the many beneficial acts of that devoted scientist, Prof. A. Koebell, entomologist of the islands. In the cultivation of coffee a large supply of labor is required at picking time, which lasts only three to four months. The rest of the year a very small force is needed. It is therefore recommended that the coffee farmer should also engage in the cultivation of other crops in order to profitably utilize the year round the labor required for harvesting the coffee. Experiments are being made to combine with coffee the cultivation of tea, sisal hemp, bowstring hemp, and other plants. Allusion has already been made to the combination of sugar and coffee culture.

In a memorial presented to your committee by the citizens of Hilo, Hawaii, they, among other things, say:

There are other industries, notably the growing of coffee, bananas, and rice, which have received considerable attention. Owing to the low price of coffee, however, and the inadequate supply of labor, the coffee industry has not been as successful as it otherwise would be. We believe coffee would become an important figure in the commercial success of these islands provided a protective tariff duty be placed on the production of foreign countries or a bounty placed on the home-grown product. It is firmly believed that Porto Rico, Hawaii, and the Philippines collectively are capable of producing all the coffee required by the United States. It is therefore a duty which the United States owes to its new possessions to foster this most important and necessary industry.

In this connection your committee brings to the attention of the Senate the following interesting letter presented to your committee by Abraham Lincoln Louisson, a coffee planter of Hawaii. We also quote his testimony given under oath before the committee in Hilo, Hawaii, September 18, 1902:

Mr. A. L. LOUISSON SWORN.

Senator MITCHELL. State your name, age, residence, and occupation.

Answer. My name is Abraham Lincoln Louisson. I am at present engaged in the cultivation of coffee on this island in the Hamakua district, located probably 50 miles north of Hilo. I reside on the coffee plantation. I was born in San Francisco in 1864. My father came to these islands when I was 2 years old. I have been engaged in coffee planting on this island for five years. I was an office clerk and bookkeeper, and owing to ill health left that and went to coffee planting with my brother.

Q. You had no experience in that business before you came here?

A. No, sir.

(Mr. Louisson reads his memorial in relation to protection for the coffee industry.)

Q. What duty do you recommend?

A. I would recommend a duty of 5 cents; probably 3 would be all right. If we could obtain a duty which would cover the cost of gathering the berries it would pay us.

Q. What effect do you think that would have on the consumer?

A. I believe it would enhance the price somewhat, but not to the extent of the duty.

Q. To what extent are you engaged in the coffee industry?

A. I have about 200 acres, and have put much money into it. My brother Henry resided in San Francisco and left there to come here and engage in the raising of coffee.

Q. What character of labor do you employ?

A. Japanese to cultivate the land, but for picking I have Portuguese women and children, boys and girls, who come to my place daily and work in the fields. It is light work, and all they have to do is to pick the berries off the trees and put them in bags, and a man with a pack mule carries the bag to the house.

Q. What wages do you pay?

A. Nineteen dollars a month to the Japanese who do the hoeing, but the picking I pay by weight; so the more they pick the more money they get.

Q. How many acres have you in commission?

A. About 200 acres.

Q. What other coffee plantations are there on this island?

A. The district where there is the most coffee is the Kona district, on the other side of this island.

Q. How much is in cultivation there; do you know?

A. I made a trip over there four or five weeks ago, and I found that a majority of plantations had been abandoned; only one or two have been kept in cultivation, because the price has been so depressed that it did not pay to pick coffee any more, and the place is going to weeds.

Q. At what elevation is your plantation?

A. I am at an elevation of between 1,500 and 1,600 feet. I was in very poor health before going there, and have pretty well regained my health. The lower the coffee grows the more shade the trees must have. Excessive heat is very detrimental to coffee culture. The higher you go the less shade is necessary.

Q. What is a day's work in picking—how many pounds of coffee?

A. Plantations are different. Where yields are large, such as I have had them, I have had a woman pick four bags in a day, weighing about 350 pounds, and I paid 50 cents a hundredweight. But that can not be taken as an average. Where the crop is light I should say that 125 to 150 pounds would be very good picking. Where the yield is heavy and the trees young and not crowded with secondaries coming out of the primaries, a good deal more can be picked.

Q. What do you say to a bounty on coffee instead of a duty?

A. A bounty would serve as well.

Q. What would you recommend?

A. At least 4 cents a pound to pay for the picking.

Q. What do you estimate the cost of coffee to produce and ship to America?

A. It is like every other agricultural production. Some places, owing to natural advantages, would be able to turn out a crop more cheaply, but I should judge coffee could not be produced for the San Francisco markets at less than 10 cents a pound.

Q. When you pick coffee do you strip the plants entirely clean or do you have a second picking?

A. Coffee ripens very gradually. Our picking season begins in January and I am just through with it now. There are green berries and ripe ones on the trees, also flowers during the ripening season. The higher you go the more gradually the coffee ripens.

Q. Is your coffee all of one grade, one price of coffee?

A. No, sir; the coffee tree produces a flat bean and a round bean, called the pea berry. The beans are graded according to size, and the price obtained according to size of the bean, the color, and age. Age improves the quality of coffee very much. If the planter is wealthy and can hold his crops he holds them. Coffee is not a perishable crop. I know of 120 bags leaving on the *Enterprise* and belonging to Mr. Gurtz, who has held the coffee so long that it has much improved in quality.

Q. Does age have the same effect on Rio, Brazilian coffee; does that improve with age, too?

A. I should think so; any coffee must with age.

Q. This coffee, you say, would cost about 10 cents a pound to plant and deliver in San Francisco. Is that the same grade as Brazilian coffee?

A. No, sir; far superior to the Brazilian coffee. About five years ago Hawaiian coffee sold in San Francisco for 19 and 20 cents. Now, the last sales I made netted me 11 cents, and to-day only the most favored plantations can exist.

Q. Is that owing to overproduction in Brazil?

A. Yes, sir; and their advantage in paying in silver and selling for gold. I am told they pay only \$6 a month in Brazil for labor, and that in silver.

Q. How long does it take the coffee plant to produce?

A. I have planted the most of my coffee from Guatemalan seed; it grows faster than Brazilian coffee. Four years from the time you plant you receive the crop.

Q. How long is it practicable to keep that coffee planted without changing?

A. That I am unable to state. It is said that in Central America the crop is profitable for thirty years, and in Porto Rico, where the soil is exceedingly deep, the trees thrive for seventy years, but we have not had long enough experience here.

Q. What is the enemy to coffee here?

A. I know of no enemy; I have been in the Kona district and the trees are perfectly healthy; they have a very large crop this year.

Q. How expensive is the machinery required?

A. Very expensive. Along side of me there are small settlers, Portuguese. All they have is a little hand pulper, which they work by hand. The coffee must be fermented to get rid of the outside pulp. I have to have a drying house, machinery for that, and drying floors.

Q. Suppose Congress should fail to extend any relief in the way of bounty, should you feel compelled to abandon the industry?

A. I am located in one of the most favorable coffee districts in the island, and I think I can survive, but most of the other coffee plantations have gone to the wall.

Q. Mr. Louisson, a member of Hackfeld & Co., made the statement that they had written off \$300,000 as a loss in coffee. Do you know what that is caused by?

A. Where was this loss incurred?

Q. I don't know; I supposed you would know.

A. Well, from what I understand, the coffee did not seem to thrive well in certain places and coffee did not produce in certain places. But that is not a criterion for the whole of the islands, because if you want to see an enormous production all you have to do is to come to my place and look at the coffee.

(Mr. Philip Peck, of Hilo, interrupting:)

Mr. PECK. I can say for myself, we now have 420 acres of coffee near Hilo, but we have abandoned it. The loss of Hackfeld & Co. was caused by buying large areas from people; they sold it to the sugar companies for \$50, the principal cause of loss; they had contracts with the people for ten years to supply them with a certain amount a year. The people could not afford to pick the coffee under present prices of labor; they simply had to give it up.

Q. Mr. Peck, what do you say it costs to grow a pound of coffee?

A. When labor was plentiful and we were paying \$12.50 a month to laborers, and they were glad to get it, they worked faithfully for us, but since the scarcity of labor they ask \$1 a day, and at the rate they are working coffee would cost us 16 cents a pound. Our 425 acres of coffee are lying there in weeds.

There is another thing which Mr. Louisson did not speak of. In Central American countries they charge an export duty of \$2.25 in gold, and of course the people of the United States have to pay that.

Q. What do you recommend, Mr. Peck, if anything, to protect the industry here and promote it?

A. These islands charged 7 cents a pound for coffee brought to these islands. A small duty would not help us against the cheap labor of South America. I think a bounty would help us more.

Q. Anything else you wish to state, Mr. Louisson, in regard to the coffee industry?

A. No, sir.

Q. Or you, Mr. Peck?

A. No, sir.

Q. How many pounds of coffee do you get for an average crop?

A. Our trees when three years old average 1½ pounds to a tree. In order to keep up the crop of coffee it would require very heavy fertilization with potash.

Q. What is the cost per acre of fertilizer?

A. I did not try it. I calculated that the more coffee I produced under certain conditions the poorer I should be.

Q. Is not this a better country for coffee than Brazil and South America?

A. Yes, a better quality of coffee; the coffee of these islands is not so bitter as the Brazilian coffee. It has not so much caffeine in it, and one can drink this coffee with less injury than any other.

Q. The Guatemalan coffee is always about an even price, is it not?

A. It fluctuates now. I have seen a letter from a gentleman formerly employed in San Francisco—we thought we would take our machinery to Guatemala to be sold. He wrote "You may sell your machinery, but can you get your price for it? The plantations in Guatemala are mortgaged up to their necks." If they are mortgaged on account of the low price of coffee, how can we exist unless something is done to help us? That we can raise the coffee there is no question, but we can not compete, principally on account of the labor question. We can not pay a dollar a day and sell our coffee at a profit.

Q. Can you get enough labor?

A. No, we can not get enough labor. I entered into correspondence with the Secretary of War and the Secretary of the Navy, and asked that all commissary coffee be purchased from us, but that was not done; for what reason I do not know.

Hon. Thomas Fitch, a leading member of the Hawaiian bar, in discussing under oath, before your committee, various subjects, made the following suggestions in regard to the coffee industry:

It can not be reasonably expected, I think, that the people of the United States, who have for years been accustomed to a free breakfast table, will consent to a tariff duty on coffee. Yet Congress might readily agree to a bounty on Hawaiian coffee of, say, 4 cents a pound for a term of ten years, or it might be provided that a portion of the custom duties received at Honolulu should be placed in a special fund for payments of coffee bounties.

Hawaiian coffee is of such superior excellence that it will command a remunerative price, and could be profitably grown without a bounty if enough were raised to supply the principal markets that could be readily created for it. But no market can be created on a production of 25,000 bags, or with less than ten times that number.

A bounty of 4 cents per pound would stimulate the production and cause new areas to be planted and cultivated by white American farmers and so supply the body politic with a much-needed class of citizens.

The Merchants' Association of Honolulu, in a memorial presented to your committee referring to the coffee industry, said:

Coffee, one of the minor industries of Hawaii, has suffered of late years chiefly from the increased supply of the South American product. In any future readjustment of the tariff we would bespeak your consideration for Hawaiian coffee. (See Appendix, page .)

Attention is called to the following interesting and instructive letter presented to your committee at Hilo, Hawaii, by Messrs. John M. Horner & Sons, residents and agricultural experimenters in the Hawaiian Islands for the past twenty years:

To the honorable subcommittee on Pacific islands and Porto Rico selected by Congress to investigate conditions and government of the Territory of Hawaii.

GENTLEMEN: Having been practical and actual farmers in the State of California from 1846 to 1879, at which time we came to the Hawaiian Islands (where we have continued farming to the present time), we feel that our experience in this line in this Territory during the past twenty years qualifies us to speak intelligently upon the subject of diversified agriculture in Hawaii.

We first located on the island of Maui, where we entered into an agreement with the Hawaiian Commercial and Sugar Company to plant cane, with the further agreement to sow grains of all kinds and plant vegetables on the land of the company.

Upon our arrival we were told that diversified farming could not be made profitable in Hawaii; but after looking over the island and investigating the soil we concluded, like many who preceded us and succeeded us, that those who had tried farming previous to us did not understand their business. Like all newcomers, we based our opinions upon conditions existing in the mainland. To us the most favorable conditions of climate and soil were presented, and, against the advice of those who had tried general farming in former years, we plowed and sowed to barley and oats several hundred acres.

It came up and looked well until it was about one foot high when it was attacked by worms and the entire crop was destroyed. We were not discouraged however, and the following year we sowed all the land we had cultivated the first year and added quite a lot more, the result was the same as the first; no crop. About this time the idea occurred to us that those who tried farming previous to our arrival had arrived at about the right conclusion, viz, that general farming was not a profitable investment, and we did not try it again on Maui.

In the fall of 1882 we come to the Hamakua district in the island of Hawaii, and took up cane planting, general farming, and stock raising. The land under our control extended from an elevation of 200 feet at the seashore up to 10,000 feet, which is the limit of the vegetation.

On this tract of land we have tried all kinds of grains during the twenty years it has been in our control and at all elevations from 1,250 feet up; no results were obtained from wheat, barley, or oats. They all came up well and did well until they were about a foot high, when they were always attacked by worms as they had been on Maui. We never had even pasture for the above grains. We have planted corn and potatoes more or less every year and we have been able to get a paying crop from these two for about one year out of three, but the losses have always exceeded the

receipts to such an extent that we have practically given up this kind of farming, and are perfectly willing that some one else should reap the fortune and glory that is to be obtained from general farming in the islands of Hawaii.

It is our candid opinion, based on an experience covering a period of twenty-three years in the island of Hawaii, that general farming will never pay until science comes to the relief or aid of farmers and finds an enemy for the pest that infests our soil. * * * We will add that in the forests, using virgin soil, the chances are even that there will be a paying crop the first year, but in the second year all the insect pests that inhabit our soils, with their relations and friends, will be there waiting for the innocent and unsuspecting farmer's crop to get well started when they will attack it, and in spite of all his efforts his crop is doomed. The result is that farms, as far as general farming is concerned, are practically abandoned. As in everything else there are exceptions to the rule, but cases where success has been obtained are so few and the small tract so favorably located and the return so small in comparison to the time and labor that one hears but little about them.

In 1889 we began the growing of coffee, which was selling at that time in the market at from 18 to 22 cents a pound. As coffee does well in this district, and in many other parts of this group, we thought that we had at last found something outside of the sugar industry that would pay. We continued to extend the cultivation of it up to a few years ago, and now have about 400 acres, but after we had increased our area the price went down, our last account sales showing but \$95.10 net for 1,000 pounds of cleaned coffee, while the cost of production and marketing was \$105.25 for 1,000 pounds, which was a loss of 1 cent per pound for every pound produced.

The cost of cultivation is made up as per memorandum herewith attached. Living expenses of owner or manager and family is not included in this estimate, only the actual labor, etc.; the coffee being under the same management as the sugar plantation, we do not have this extra expense. A great many of homesteaders in this district, having lost money on the coffee they picked last year, did not harvest their crop this year, realizing the fact that they would save money by not harvesting it. In many cases they have left their homesteads and have sought and found employment on the adjoining sugar plantations.

In our own cases we have decided not to cultivate our coffee any more, and what was once one of the most promising and best cared for coffee plantations in the Territory of Hawaii is now nearing the stage of a wilderness, and this will be the end of the most of the coffee plantations in this Territory unless there is something done by the United States to encourage its cultivation.

High cost of labor is much against it; again the trees need to be picked over at least three times to get the entire crop, whereas in the South American countries one picking suffices. Again in most cases it is costly to transport it to the landings; freights are very high in Honolulu as you will notice by glancing at the memoranda attached. We are, perhaps, as favorably located to grow coffee successfully as any other planters in the Territory, for we can generally send men up to assist in the picking. Again, when there is not work in the coffee the men are given work on the sugar plantations. Thus one works as an assistant to the other, whereas independent planters, or those who have coffee only, can not afford to keep the men between the time of the pickings, and are obliged to depend on getting extra men when they are required. In many cases the men are not to be had and the coffee is not gathered, owing to this shortage.

We therefore say that, without assistance to this industry, there will be left only sugar, rice, and stock raising, but with proper encouragement it can, no doubt, be made an industry ranking next to sugar. There is approximately 200,000 acres in the Territory suitable for the cultivation of coffee and it would soon be occupied. There has been an agitation for many years, both by the press and individuals, to encourage small farmers to settle here. That it may be accomplished is the hope of every Anglo-Saxon in Hawaii, but it is preposterous to encourage people to come here until the coffee is protected in such manner as Congress may devise, to put it upon a paying basis, and until science has solved the problem of eradicating pests.

It has been demonstrated that, of the various branches of agriculture tried in Hawaii, coffee is, up to the present time, the one best suited to the man of limited means. Nothing is more beautiful than a home in the center of a coffee plantation, and there the American will find his surroundings most pleasant.

If the 200,000 acres mentioned can be settled on by American families, then this Territory would indeed be not only the paradise of the Pacific, but the paradise of the world, a condition which can not in reality exist while sugar and rice are the only industries which may be profitably maintained.

JOHN M. HORNER & SONS.

Rents	\$10.00
Hoeing	18.00
Pruning	5.00
Picking 5,200 pounds berries or 1,000 pounds cleaned coffee	32.76
Delivering same from field to coffee house	2.96
Pulping, drying, bagging 5,200 pounds berries	6.625
Cost of bags for parchment .....	.867
Cost of bags for cleaned coffee	1.428
Cartage to landing .....	.487
Shipping at landing .....	.125
Freight to Honolulu	2.37
Cartage in Honolulu .....	.325
Hulling, polishing, grading	7.625
Hand picking	7.35
Cartage to wharf .....	.25
Freight to San Francisco	1.625
Marine insurance .....	.825
State tolls .....	.025
Two per cent loss in weight	1.598
Commissions	5.00

105.244

Your committee deems these communications of so much importance that for the convenience of the Senate we incorporate them in the body of this report instead of relegating them to an appendix.

Your committee recommend legislation granting a bounty on coffee produced in Hawaii of 4 cents per pound, to continue for a period of ten years.

THE EXPENSES OF CONDUCTING A GOVERNMENT UNDER THE PRESENT CENTRALIZED SYSTEM IN HAWAII ARE ENORMOUS, HOWEVER HONEST AND ECONOMICAL MAY BE THE OFFICIALS.

It is disclosed by testimony taken by your committee, and in reference to which I believe there is little or no dispute, that the expense of conducting this centralized government in Hawaii is very much greater than in many of the Western States and Territories of the mainland in proportion to the population. For instance, it is stated that the expense for the two-year period ending December 31, 1899, was \$4,746,000, or 2,373,000 per annum, while the average population for these two years was less than 140,000, so that the cost per capita per annum, on the basis of 140,000 population, was \$16.95, or, reckoning on the basis of the population according to the last national census, 154,001, the cost was \$15.41 per capita per annum.

Contrasting with this a reference to the reports of the financial transactions of the State of Nebraska for the year ending April 1, 1899, we find that the sum total of the expenditures for these two years was \$2,486,000, or only \$113,000 more for two years than the expenditures for one year in Hawaii; and for the two years ending April 1, 1901, \$2,591,000, an average of \$1,396,250 per annum for the four years, or less per annum by \$976,750 than the annual expenditures in Hawaii; whereas the population of Nebraska, according to the late census, was 1,688,900, making the per capita cost per annum in Nebraska for these four years \$1.28, as against \$16.95 per capita in Hawaii. That, however, did not include county and city expenses, but was of the State government. Contrasting again with the State of Utah for the two years ending December 31, 1900, the expenditures were \$1,029,000, or \$514,500 per annum, exclusive of schools, which are under county control, and which cost \$300,000 per annum, while the population of Utah, according to the last national census, was 276,565, making the cost of

the State government of Utah for the years 1899-1900, including the expenses of the legislature and all other institutions, together with the cost of public schools under county control, \$2.94½ per capita per annum.

The total expenditures in the State of Michigan, according to the report of the auditor-general, for all purposes, for the year ending June 30, 1900, were but \$5,168,718, and yet this State has a population of 2,419,872, which makes the per capita expense \$2.13½.

Contrasting the expenses of the government of Hawaii with that of New Mexico it will be seen that the ratio of expenses in Hawaii is very largely in excess of that in New Mexico, very many times more the amount, although there is but slight difference in the population of the two Territories. As shown by the financial report of the Territorial government of New Mexico, the expenses of that government for the years 1897 and 1898 were \$321,317 per annum. The estimate of the Territorial auditor for 1899-1900 was \$350,000 per annum. The population of New Mexico in June, 1900, was 195,310, so the comparison stands thus:

	Population	Expenses.
New Mexico	195,310	\$321,317
Hawaii	154,001	2,373,000

The expense per capita in New Mexico per annum being \$1.80 against the capita expense in Hawaii of \$16.95.

Compare the Territorial expenses of Arizona with those of Hawaii, and we find, according to the report of the auditor of Arizona, that the annual expense for the year ending June 30, 1900, including \$90,000 expended on a new capitol building, was but \$270,665. The population of Arizona according to the last census, including 30,000 Indians, was about 123,000. The cost per capita, therefore, including the \$90,000 for capitol building, was but \$2.50, while exclusive of the amount expended on the capitol building, the total expenditure of the Territorial government of Arizona was, for the fiscal year 1901, \$1.50 per capita, as against \$4.60 per capita for Hawaii.

It should be stated in this connection that the estimates and recommendations of the governor for appropriations for two fiscal years were very much larger than the amount actually appropriated by the legislature for the biennial period ending June 30, 1901. The estimates amounted to \$7,927,869.75, but this included \$799,000 loan fund and did not include fire claims, and amounted to \$25.74 per capita of the whole population.

According to the testimony presented to your committee, the total expenditures in the Territory for the year ending June 30, 1901, were \$2,280,579.41, or \$14.16 per capita for every man, woman, and child in the Territory, and \$32.48 per capita of the whole population—67,123—excluding Japanese and Chinese.

ATTORNEY-GENERAL'S DEPARTMENT.

The number of employees and the expenses incident to the administration of the office of the attorney-general in the Territory presents a condition rather startling, when it is considered that the total population of the Territory is but 154,000. There are in the office of the attorney-general, all told, employees to the number of 315, of whom

228 are Hawaiians, the remaining 87 Americans and other nationalities. Appropriations for all departments are made biennially. The appropriation for this department—that of the attorney-general—for the fiscal period from June 30, 1901, to June 30, 1903, aggregated \$620,719.95. From this there has been drawn on the first year of this biennial period \$5,166.26, more than one-half of the amount, or a total of \$315,526.23, leaving a balance for the fiscal year ending June 30, 1903, of but \$305,194.72, and should a like amount be overdrawn on the last of these two fiscal years there would be a deficit of \$10,332.52.

Attorney-General Dole gives as his reason for having used more than one-half of the appropriation the first fiscal year that the appropriation, in the first place, was insufficient. (See last report of Governor Dole, p. 52; also appendix.) Notwithstanding the fact that the attorney-general has a deputy at a salary of \$3,000 and an assistant at a salary of \$2,400 a year, both of whom are, in the language of the testimony of Attorney-General Dole, "very able and reliable lawyers," the attorney-general states that during the last fiscal year he employed outside counsel to whom was paid the sum of \$1,509.25. In addition to the deputy and assistant referred to there is a clerk in the office drawing a salary of \$1,800 a year, a stenographer at a salary of \$1,500 a year, and a messenger at \$20 a month. The incidental appropriations for the office of the attorney-general for these biennial years was \$30,000; for the two years previous, \$40,000.

Reference to Appendix 1, Exhibit A, being the testimony of Attorney-General Dole, will give some idea as to the use to which this large appropriation is put each year. It will be observed the great bulk of it is in salaries and incidental expenses.

Attorney-General Dole in his testimony, page 218, says:

Appropriations aggregate for my department biennially \$620,719.95, of which \$20,000 was for the purchase of the Gamewell police and fire-alarm system; the remainder is for the support of the department.

It will be seen by a reference to the statement of Gen. E. P. Dole (exhibit presented by him) that of the sum of \$620,719.95, appropriated for his office for two years, that \$163,480 of the same are eaten up by salaries alone (see appendix), and \$158,939.95 of the amount is expended as follows:

Support and maintenance of prisoners	\$90,000.00
Incidentals, civil and criminal expenses	30,000.00
Coroner's inquests	5,000.00
Expenses of witnesses in criminal cases	7,000.00
Detective service	6,500.00
Police call-box system	20,000.00
Reimbursement of H. M. Dowe (for what purpose not shown)	439.95
Total	158,939.95

THE EXPENSES OF THE MILITARY ESTABLISHMENT IN HAWAII.

In a report from the military committee of the Territorial legislature of Hawaii made at the recent session it is shown that during the three preceding years the total amount expended in the maintenance of the militia, citizens' guard, and band reached the enormous sum of \$230,281.15, as follows:

Total cost of militia	\$166,184.19
Total cost of citizens' guard	8,193.00
Band	55,903.96
Total	230,281.15

The laws of the late Hawaiian Republic provided for a national guard. These laws were continued in force by the organic act organizing the Territory and are still in force. According to the late annual report of Col. J. W. Jones, commanding, this former national guard, now an organization of the Territory, is composed of one regiment, including nine companies. Company C is Portuguese; Company D, about two-thirds Hawaiian, and located at Hilo, on the island of Hawaii; Companies E and G are Hawaiians; Company H is mainly Hawaiian; Company I is about one-half Hawaiian, and located at Wailuku, island of Maui. The rest of the officers and enlisted men, says Colonel Jones, "are mainly American, with a representation of Germans and British, and perhaps other nationalities." (See late report of Colonel Jones; also late report of Governor Dole, p. 58; also see Appendix.)

APPROPRIATIONS FOR AND EXPENDITURES OF BOARD OF HEALTH.

The total appropriation for the board of health for the biennial period ending June 30, 1903, was \$621,166.

The testimony also shows very large amounts of money each year paid out in salaries by the department of board of health. It is made to appear by the schedule of employees and salaries, attached to the testimony of Attorney-General E. P. Dole, that no less than 25 physicians in the Territory are under annual pay at salaries ranging, biennially, as follows:

Two, in Honolulu, at.....	each..	\$4,800
Three, at.....	do...	2,400
One, at.....	.....	2,160
Eleven, at.....	each..	1,440
Six, at.....	do...	1,200
One, at.....	.....	960
One, at.....	.....	600

while in the department of health, in addition, there is an executive officer at a salary of \$4,800, a secretary at \$4,000; food commissioner and analyst, including poi, at \$4,200; city sanitary office at \$3,600; food inspector and purchasing agent at \$2,400, while the pay roll of general expenses for the biennial period is as follows:

Medical inspector and veterinary.....	\$4,200
Bacteriologist and pathologist.....	4,200
Three inspectors, at \$2,160 each.....	6,480
Three inspectors, at \$1,920 each.....	5,760
Registrar of deaths.....	2,400
One sanitary inspector for Hilo.....	1,920
Milk and poi inspector.....	1,800
Fish inspector.....	1,440
Assistant fish inspector.....	960
Fish and poi inspector at Hilo.....	720
Stenographer.....	1,920
Morgue attendant.....	1,200
Janitor and messenger.....	720

For other appropriations, biennial, for the two fiscal years ending June 30, 1903, for the board of health, your committee quotes the following from the testimony of Attorney-General E. P. Dole (see appendix also):

Board of health—Appropriations.

General expenses.....	\$13,000.00
Disinfectants and vaccine.....	2,000.00
Medicines for Territorial dispensaries.....	9,000.00
Support of nonleprous children of lepers.....	20,000.00
Leprosy asylum.....	24,000.00

Segregation, support, and treatment of lepers	\$171,000.00
Kalaupapa store	45,000.00
Stamped envelopes for free use of lepers	2,000.00
Koloa Hospital, Kauai	1,500.00
Waimea Hospital, Kauai	3,500.00
Lihue Hospital, Kauai	3,600.00
Malulani Hospital	8,000.00
Hilo Hospital	12,000.00
Queen's Hospital	40,000.00
Hospital for Incurables	2,000.00
Kapiolani Maternity Home	9,600.00
Fumigation expenses	10,000.00
Receiving hospital, dispensary, and morgue	25,000.00
Claim William Thomas Callow, to be paid upon his giving a receipt in full for the poi thrown away	100.00
Claim Kalilikane, to be paid upon his giving a receipt in full for the poi thrown away	408.25
Freight and passenger guaranty for weekly common-carrier service between Honolulu, Oahu, and Kaunakakai, Kamalo, Pukoo, Halawa, Wailau, Pelekunu (Molokai), Lahaina, Kahului (Maui), Kahalpalaoa, Manele, Awalua (Lanai), not to exceed the sum of \$5,200, and to be awarded after public bid or tender to the lowest bidder	5,200.00
Unpaid bills, bubonic plague	7,860.21
Unpaid bills incurred on account of bubonic plague:	
American livery stables	\$7.50
Ah Chew Brothers	7.50
Benson, Smith & Co.	72.21
California Feed Company	63.99
City Supply and Feed Company	4.00
Dairymen's Association	11.40
Fashion Stables Company	138.50
Green, Cyrus	61.00
Harrison, F.	548.60
Chinese News Company	24.00
Hawaiian News Company	9.50
Hilo Drug Store Company	3.85
Holmes, E. N.	1.60
Hawaiian Commercial and Sugar Company	9.35
Hustace & Co.	528.50
Hawaii Shinpo Sha.	7.00
Interisland Steam Navigation Company	2,140.00
Irwin & Co., W. G.	157.00
Kreuger, F.	33.00
Kahului Railroad Company	1,079.23
Kalauao, C., (2) vouchers, cleaning Waiolama swamps	79.50
Kaapana, Kaapa & Ku (pay roll)	48.00
Love's bakery	38.40
Lockington, G. W.	8.00
Dr. R. P. Meyers (specific salary, exceeding \$1,800 part of time)	97.25
Makaainana Printing House	7.00
Merchants' committee	682.00
Metropolitan Meat Company	29.75
Marine-Hospital Service	2.50
Oahu Lumber and Building Company	200.00
Paia Plantation Store	205.55
People's Express Company	4.50
Pukalani Dairy	73.10
Paakaula, J.	150.00
Perry, A.	6.75
Reis, M.	12.00
Singer's bakery	5.25
Smith, J.	56.00
Teves, A.	1.50
Union Express Company	26.25

Unpaid bills incurred on account of bubonic plague—Continued.

Union Feed Company.....	\$9.94	
Volcano Stables Company.....	3.75	
Weedon, W. C.....	19.15	
Wilder Steamship Company.....	12.50	
Wilcox, W. L.....	11.25	
Wilcox, C. (specific salary exceeding \$1,800 per annum).....	400.00	
Watt, Dr. H. C., (2) vouchers P. M. examination, wrong appropriation.....	40.00	
Wright, W. W.....		\$35.75
Yamato Shinbun.....		10.00
Zumwalt, J. L. W.....		125.00
Emmeluth, J., & Co.....		9.99
Iao Stables Company.....		29.50
Scrimgeour, A. B.....		20.00
Andrews, L. A. (cash advanced).....	\$133.00	
Barnard, E. W.....	26.45	
Hackfeld & Co.....	27.40	
Herring, J. M.....	24.00	
Hilo Mercantile Company.....	107.20	
Kauai, U.....	6.20	
Lewis, Peter.....	21.00	
Rapozo, Joe.....	1.50	
Shipman, W. H.....	11.40	
Serrao Grocery.....	3.40	
Volcano Stables.....	35.00	
Wing Man Ching.....	1.25	
Waieka Boat House.....	94.50	
		7,860.21
Unpaid bills, 1897, 1898, 1899, 1900, and 1901.....		1,509.40
		<u>436,277.86</u>

General expenses, unpaid bills, 1897, 1898, 1899, 1900, and 1901:

Aloha Aina Printing Office.....	13.00
Bulletin Publishing Company.....	99.00
City Furniture Store.....	302.50
Davis, George A., and P. Neumann.....	200.00
Hawaiian Gazette Company.....	259.50
Hawaiian Star Company.....	158.00
Honolulu Republican.....	29.00
Honolulu Chinese Chronicle.....	45.00
Hilo Tribune Publishing Company.....	78.00
Makaainana Printing House.....	78.00
Maui News.....	86.00
Mercantile Printing Company.....	29.50
Robert Grieve Publishing Company.....	29.50
Shin Nippon Sha.....	13.00
T. G. Thrum.....	17.65
Yamato Shinbun.....	3.25
	<u>1,509.40</u>

BOARD OF PUBLIC WORKS.

For a statement of the expenditures of the board of public works your committee submits the following, from pages 15 and 16 of the late report of Governor Dole.

PUBLIC WORKS.

Statement of appropriations for the department of public works for the two years ending June 30, 1903; also amounts drawn from July 1, 1901, to June 30, 1902, and the balance on the latter date.

	Appropriations.	Drawn.	Balances.
Salaries and pay rolls.....	\$354,873.00	\$146,280.46	\$208,592.54
Current.....	2,303,325.00	679,651.62	1,623,673.38
Unpaid bills.....	66,241.60	60,895.48	5,346.12
Emergency fund, prior to July 1, 1901.....	26,500.00	5,700.39	17,029.61
Roads and bridges, Honolulu contracts.....	12,849.95	12,839.95	10.00
Road, Ninole homestead contract.....	1,420.00	500.00	920.00
Honolulu fire-department contract.....	12,905.00	8,360.00	4,545.00
	2,778,114.55	917,998.32	1,860,116.23
Road-tax special deposit:			
Road-tax balance, June 30, 1901.....			72,938.75
Receipts, June 30, 1901, to June 30, 1902.....			89,353.00
Total.....			162,291.75
Amount drawn by the several road boards.....			107,808.73
Balance to credit, July 1, 1902.....			54,483.02

Statement showing the total amount collected, and from what source, at the clerk's office of this department for the year ending June 30, 1902.

Rents.....	\$45,433.24
Sewerage.....	13,999.83
Land sales.....	36,459.00
Market.....	13,432.10
Garbage.....	4,970.50
Excavator.....	8,503.40
Weights and measures.....	235.25
	123,033.32
Government realizations, building permits, etc.....	5,654.43
Total.....	128,687.75

Statement of receipts by the bureaus of the department of public works from July 1, 1901, to June 30, 1902, and paid into the treasury.

Harbor master:	
Honolulu.....	\$91,650.71
Hilo.....	2,664.45
Powder magazine:	
Honolulu.....	2,735.60
Hilo.....	397.40
Kerosene warehouse:	
Honolulu.....	5,884.44
Hilo.....	538.22
Waterworks:	
Honolulu.....	97,501.15
Hilo.....	6,292.20
Laupahoehoe.....	157.50
Kahului and Wailuku.....	4,196.75
Kaloa.....	275.00
Roads, Honolulu.....	433.37
Total.....	212,726.79

Expenditures on roads.

On account of road tax.....	\$107,808.73
On account of emergency appropriation.....	9,470.81
On account of current appropriation.....	270,051.54
Total.....	387,331.08

Summary of the employees of the department by nationality.

Hawaiian Americans	646	Italian American	1
Americans	117	French American	1
Portuguese Americans	38	Swedish American	1
Portuguese	254	Galicians	15
British Americans	17	Malay	1
British	2	Porto Ricans	2
German Americans	12	Filipino	1
German	1	Pole	1
Norwegian Americans	3	Gilbert Islander	1
Japanese	104		
Chinese	3	Total	1,230
Spaniards	9		

It will be observed from the foregoing statement that for the department of public works alone there was appropriated by the late legislature for the two fiscal years ending June 30, 1903, the sum total of \$2,778,114.55.

And that the total amount collected by the secretary of that board for the fiscal year ending June 30, 1902, from all sources, which included rents, sewerage, land sales, market, garbage, excavator, weights and measures, and building permits, was \$128,687.75, while an additional amount was received by the different bureaus of the board and turned into the Territorial treasury from the harbor master at Hilo and Honolulu; powder magazine, Honolulu and Hilo; kerosene warehouse, Honolulu and Hilo; waterworks, Honolulu, Hilo, Laupahoehoe, Kahului, and Wailuku, and Koloa, and roads, Honolulu, the further sum of \$212,726.79.

The foregoing table also shows that the whole number of employees of the department of public works is 1,230.

ANNUAL RECEIPTS.

The total receipts of the Territory from all sources for the fiscal year ending June 30, 1902, amounted to \$2,473,172.81. The different sources from which this revenue is derived will appear from the following table:

Cash statement July 1, 1901, to June 30, 1902, current account.

RECEIPTS.

Cash on hand July 1, 1901		\$75,994.97
Tax bureau:		
Oahu collections	\$926,227.56	
Maui collections	186,411.97	
Hawaii collections	363,385.65	
Kauai collections	182,081.91	
		\$1,658,107.09
Treasury collections:		
Licenses	142,736.25	
Realizations	26,024.99	
Revenue stamps	61,095.00	
		229,856.24
Public instruction:		
Book account	4,844.60	
Rents	1,077.50	
Tuition fees	288.00	
		6,210.
Harbor master, Honolulu:		
Wharfage	56,531.97	
Towage	1,942.65	
Pilotage	33,176.09	
		91,650.

Public works office:

Rents	\$45,433.24	
Realizations	5,654.43	
Land sales	36,459.00	
Sewerage	13,999.83	
Excavator	8,503.40	
Weights and measures	235.25	
Honolulu market	13,432.10	
Garbage	4,970.50	
		\$128,687.75
Fines and costs		82,612.65
Kerosene warehouse, Honolulu		5,884.44
Kerosene storage, Hilo		538.22
Wharfage, Hilo		2,664.45
Honolulu waterworks		97,501.15
Hilo waterworks		6,292.20
Koloa waterworks		275.00
Laupahoehoe waterworks		157.50
Wailuku waterworks		4,196.75
Conveyance bureau		17,658.50
Land revenue		\$103,886.69
Land sales		13,036.49
Prison receipts		381.80
Registry of brands		45.00
Government realizations		20,397.08
Powder storage, Honolulu		2,735.60
Powder storage, Hilo		397.40

Total receipts July 1, 1901, to June 30, 1902..... \$2,473,172.81

THE PLACE OF RESIDENCE AND AGE LIMIT AS TO ELIGIBILITY OF TERRITORIAL EXECUTIVE; AND LIMITATION AS TO RESIDENCE OF MEMBERS OF THE LEGISLATURE, AND AGE OF SENATORS, SHOULD BE CHANGED.

Your committee found much complaint among many people in the Territory as to the age limit to the right to hold office in the Territory as prescribed in the organic act. On this subject we refer to the testimony of different witnesses to be found in the Appendix.

By the provisions of the organic act a person to be eligible to the office of governor of the Territory of Hawaii must be at least 35 years of age, and to be eligible for Territorial senator 30 years of age, and for the house of representatives 25 years of age. Besides the age limit it is provided in the organic act that a man must have resided in the Territory three years before he is eligible to sit in the legislature, while by section 66 of the organic act it is provided that to be eligible to the office of governor of the Territory a man "shall not be less than 35 years of age and shall be a citizen of the Territory of Hawaii."

Your committee is of the opinion that all these limitations as to time and age and citizenship as to the governor are unwise; the limitation as to the age of a senator should be reduced at least to 25 years; the provision requiring that the governor should be a citizen of Hawaii should be removed entirely; in fact, all the circumstances considered, if a limitation of any kind were imposed, it should be the other way—that the governor should be selected from outside the Territory. However, this your committee does not recommend.

While Governor Dole is recognized by all as an honest, capable man, and has succeeded fairly well considering the difficulties with which he has had to contend, it is nevertheless a fact that the present leaders in Hawaii are divided into two classes—those who helped to destroy the

monarchy, and those who stood by the monarchy to the last and opposed a change of government. Hence it is but natural that a person selected from either class for executive will find his way strewn more or less with obstacles which would not obtrude themselves in the path of an executive selected from the mainland, who had had no part either one way or the other in bringing about the several changes of government that have occurred in the islands in the last nine years.

This is an age in which young men, vigorous and strong physically and intellectually, are coming to the front. President Roosevelt was a member of the legislature of New York, we believe, when he was but 23 years of age, and candidate of his party for speaker of the house when he was but 24 years of age. He was governor of the Empire State at 40 years of age and President of the United States when but 44.

Daniel Tompkins, one of the greatest governors of New York, was elected governor the first time when he was only 32 years old, and was continued in office for ten years. William E. Russell had served three terms as governor of Massachusetts, we believe, before he was 35 years of age. William Pitt was a member of Parliament when 21 and prime minister of England at 24. Thomas Jefferson is supposed to have written the Declaration of Independence when about 31 years of age, while Napoleon commanded the allied armies when less than 28. Young men between the ages of 20 and 30 should not be handicapped by too many legislative inhibitions or restraints.

The clauses in sections 34 and 40 of the organic act of Hawaii to the effect that a man must have resided there three years before he is eligible to the legislature will tend very largely to discourage immigration of American citizens to Hawaii. It should be eliminated from the organic act and six months substituted. This is the law in most of the Western States, including Kansas, Nebraska, Idaho, Iowa, Oregon, and Washington. If so admirable a selection as Judge Taft for governor-general of the Philippines can be taken from the State of Ohio, and Gen. Luke Wright, an equally capable man, as a member of the Commission, can be taken from Tennessee, and so good a man as Governor Hunt can be found outside of Porto Rico for governor of that Territory, it occurs to your committee that the President of the United States ought to have the right to select a governor for Hawaii either from among the citizens of Hawaii or from among the citizens of any of the States or Territories on the mainland.

Your committee therefore recommends a change in the organic act, removing the limitation of Territorial citizenship as to the governor and also reducing the age limit as to governor from 35 to 30 years of age, and removing also the age limit as to State senator from 30 to 25 years, and the residence limit for members of the legislature from three years to six months.

THE PENAL CODE.

Congress in passing the organic act sought to keep in force those local laws and parts of local laws believed to be applicable, rejecting those local laws and parts of local laws deemed to be inapplicable and undesirable, and in doing this Congress undertook to particularly designate these laws and sections of the Penal and Civil Code to be repealed, retaining in force all others.

This was a most difficult task, and it is not surprising that some of

the old sections of these codes or other general and special laws of the Territory that are wholly inapplicable and which do not conform to the spirit of the present advanced civilization should have been overlooked even by the distinguished commission of able men who framed the organic act.

Surely some of the parts of the Civil and Penal Code which by the organic act are permitted to remain in force would not meet the approval of Congress or of the people of this country; for instance, a law which attaches to the offenses of embezzlement and burglary a penalty in the discretion of the court of *imprisonment for life*, and which in case of embezzlement gives the court the discretion of fining in five times the amount of property embezzled or *imprisonment for life* would hardly meet the approval of the people or of Congress in the present day; and yet such is the penal code in force in Hawaii to-day. On this subject Hon. Gilbert F. Little, circuit judge for Hilo district, island of Hawaii, testified before your committee as follows:

Senator MITCHELL. Is it true, Judge Little, under the existing Territorial laws, that a man convicted of burglary can be sentenced to the penitentiary for life?

A. I do not at this moment recall it.

Q. The question has not come to your attention?—A. No, sir; if I had the penal laws here, I could tell you in a moment. Now, Mr. Chairman, having the code before me, I shall read from the penal laws of Hawaii, regarding embezzlement—section 158, chapter 15, page 93: "Whoever, being a minister, clerk, cashier, collector, or other person employed in the government, or any other branch of the department of finance, or any other department of the government, is guilty of embezzlement in money, note, or other effect or property belonging to the government, shall be punished by imprisonment at hard labor for life, or any number of years, or by fine not exceeding five times the property embezzled."

Senator BURTON. If you embezzled \$5 you would either be fined five times that amount, or \$25, or sent to the penitentiary for life?

A. Yes, sir; that is the law.

Q. You must have great confidence in the judges down here?—A. Not so much as they used to have. With further reference to the penal laws, in answer to a question propounded a little while ago, I shall read section 106, referring to burglary, chapter 14, page 81, as follows: "Whoever is convicted of burglary in the first degree shall be punished by imprisonment at hard labor for life, or any number of years;" and further, "Whoever is convicted of burglary in the second degree shall be punished by imprisonment at hard labor not more than twenty years."

Senator MITCHELL. Is that in the discretion of the court?

A. Yes, sir.

Q. Any more crimes except rape and murder that are capital?—A. No, sir; I think not.

Q. Rape is a capital offense?—A. It may be within the discretion of the court.

Q. Are there any more crimes except burglary, embezzlement, rape, and murder in which the life penalty is enforced?—A. None.

Your committee recommends a change in the law withdrawing life imprisonment as a penalty in cases of burglary and embezzlement. Your committee also recommends the appointment of a code commission, composed of three members of the bar, one of whom shall have been a citizen of the Territory of Hawaii for at least three years all to be appointed by the President, by and with the advice and consent of the Senate, to prepare a civil and criminal code for the Territory of Hawaii, each of such commissioners to receive a salary of \$4,000 in full of all compensation for his services. And your committee recommends an appropriation of \$12,000 for such purpose.

TOTAL AMOUNT OF TAXES COLLECTED, FISCAL YEAR ENDING JUNE 30, 1902.

The total amount of taxes collected in the Territory of Hawaii from all sources for the fiscal year ending June 30, 1902, was \$1,370,740.29;

this, with a total population as appears from the last national census of 154,001, is an average of \$8.90 per capita for the whole population; and as the male population is 106,369, including all nationalities, and assuming that the males pay all the taxes, and presumably they do within a fraction, it is an average of \$12.88 per capita for all males—men, boys, and children—in the islands. The whole number of registered voters in the Territory at the late election (November, 1902) was 12,482; therefore, assuming that the registered voters pay all the taxes, it amounts to \$109.81 for each registered voter in the Territory.

The following table shows the total amount of taxes collected from all sources and from the sources collected for the three annual periods from June 1, 1899, to June 30, 1900; from July 1, 1900, to June 30, 1901, and from July 1, 1901, to June 30, 1902:

Comparative statement of taxes collected from all the taxation divisions.

	July 1, 1899, to June 30, 1900.	July 1, 1900, to June 30, 1901.	July 1, 1901, to June 30, 1902.
Real estate	\$383,080.84	\$444,061.68	\$582,637.09
Personal property	377,730.12	490,392.69	571,248.69
Insurance tax	2,882.60	3,223.65	3,846.00
Dogs and tags	6,018.85	4,185.86	4,325.19
Poll	69,303.00	49,922.00	46,299.00
School	138,429.00	99,838.00	92,592.00
Ten per cent penalties	8,941.83	7,699.43	9,586.27
Advertising costs	1,157.00	1,596.15	587.15
Court costs			937.90
Carriages	6,083.00	7,387.50	8,470.00
Carts and drays	6,808.00	7,226.00	7,617.00
Road	138,322.00	99,844.00	92,594.00
Total	1,138,706.24	1,215,325.91	1,370,740.29

From this table it will be observed the total amount of taxes collected for the first year of these three was \$1,138,706.24, or an average of \$7.39 for each person in the Territory, and for the last fiscal year, ending June 30, 1902, the total amount collected was \$1,370,740.29, or an average of \$8.90 for every man, woman, and child in the Territory.

And in addition to the above taxes an income tax was levied by the last legislature, under which the sum of \$287,366.80 was collected, making the total taxes collected from all sources for the fiscal year ending June 30, 1902, \$1,658,107.09, or an average of \$10.76 from each person in the Territory.

The following table shows the manner in which the biennial appropriations for the period ending June 30, 1903, were divided among the different departments:

Appropriations.

	Appropriation.	Drawn.	Balance.
Permanent settlements	\$17,000.00	\$7,525.00	\$9,475.00
Office of the secretary of the Territory	33,600.00	7,205.70	26,394.30
Judiciary department	167,420.00	86,165.35	81,254.65
Department of the attorney-general	620,280.00	260,068.97	360,211.03
Treasury department	426,620.00	133,460.16	293,159.84
Department of public works	2,678,071.58	705,841.78	1,972,229.80
Department of public instruction	84,475.00	309,263.01	535,211.99
Commissioner of public lands	38,710.00	13,798.80	24,911.20
Commissioner of agriculture and forestry	34,632.00	12,670.33	21,961.67
Survey department	73,330.09	30,145.34	43,204.66
Board of health	621,166.00	227,799.23	393,666.77

Appropriations—Continued.

	Appropriation.	Drawn.	Balance
Band	\$47,246.00	\$18,870.83	\$28,375.17
Military	20,070.00	7,895.09	12,174.91
Auditing department	31,000.00	12,092.13	18,907.87
Fire claims commission	1,514,750.93	12,323.55	1,502,427.38
Warrants outstanding, not presented June 30, 1901	176,495.45	175,728.67	766.78
Expenses extra session legislature, 1901	24,223.28	24,213.17	10.11
Unpaid bills and claims June 30, 1901	100,549.36	92,599.93	7,949.43
Outstanding contracts	28,373.95	22,479.95	5,894.00
Total	7,498,033.55	2,159,646.99	5,338,386.56

During the last session of the legislature of Hawaii the legislature on the recommendation of the governor, appropriated for salaries alone the sum of \$2,149,813.50, or about \$6.98 per capita per annum. This was for two years.

For the fiscal year ending June 30, 1902, the total expenditures were \$2,280,579.41, or \$14.81 per capita for every human being in the islands.

The number of registered voters at the late election in Hawaii or the four principal islands of Oahu, Hawaii, Maui, and Kauai was as follows:

Oahu:		
Fourth district		3,382
Fifth district		2,986
Total in Oahu		6,368
Hawaii		2,947
Maui		2,127
Kauai		1,046
Total		12,482
Exports for year ending June 30, 1902:		
Domestic merchandise—		
To foreign countries	\$54,967	
To United States	24,700,557	
Foreign merchandise—		
To foreign countries	9,182	
To United States	29,631	
Total	24,793,735	
Specie	157,700	

Unfortunately the mainland of the United States does not export to that Territory the amount of products it should export. Your committee found it difficult to get any record of the amount of American products shipped from the mainland to these islands during the last year, while that shipped from—

Great Britain amounted to	\$259,311
The British colonies	934,585

COMMERCE.

The statistics show that the great bulk of commerce of the islands is with the mainland of our country. The total value of exports from the Territory the past year ending June 30, 1902, were of the value of \$24,793,735. Of this amount but \$38,813 in value were of foreign merchandise, \$24,754,922 domestic. The total value of shipments to foreign countries was only \$63,547, while that of shipments to mainland of the United States was \$24,730,188. The following table, taken from the

st annual report of Governor Dole, shows the total value of merchandise shipped to the United States and exported to foreign countries during the year ending June 30, 1902. This table also shows the amount of specie exported during that year to be \$157,706, making the total shipments, including merchandise and specie, of the value of 24,951,441, of which amount but \$54,365 domestic merchandise went to foreign countries, and \$24,700,557 to the United States, while of foreign merchandise shipped from the Territory but \$9,182 in value went to foreign countries, and \$29,631 to the United States.

Total value of merchandise shipped to the United States and exported to foreign countries during the fiscal year ending June 30, 1902.

	Quantity.	Value.
	<i>Pounds.</i>	
Sugar, raw	720,533,357	\$23,920,113
Coffee	1,210,098	126,644
Rice	342,300	15,422
Fresh fruits		66,161
Honey		6,455
Hides	1,099,763	78,413
Wool	351,418	38,681
Other		541,846
Total merchandise		24,793,735
Total exports, specie		157,706
Total		24,951,441

THE FLOATING DEBT OF THE TERRITORY.

Notwithstanding the fact that the United States upon annexation assumed payment of the debt of the late Republic to an amount not exceeding \$4,000,000 and had on June 30, 1902, actually paid \$2,250,300 of this amount, and had also paid to Postal Savings Bank depositors \$764,570.31, and notwithstanding the further fact of the large amount of taxes collected each year, including an income tax which the past year contributed \$287,366.80 to this revenue of the Territory, there is to-day a floating debt of the Territory amounting to between \$700,000 and \$800,000 for which the Territory is liable, and all of which serves to emphasize the enormous and abnormal expense of a centralized government such as now exists in the Territory of Hawaii.

Germany	432,498
Hongkong	198,657
Japan	909,112
Chile	271,173
France	9,231
All the other countries, not including the United States	22,016

The total imports into the Territory from other countries, not including the United States, amounted for the year ending June 30, 1902, to \$3,036,583.

NAVIGATION.

The number of vessels of the United States engaged in the Hawaiian trade in 1896 was 247, with a tonnage of 243,983 tons, while the number engaged in the year ending June 30, 1902, was 477, of the tonnage of 626,745 tons. In addition there were foreign vessels to the number of 210, with a tonnage of 399,049, making the total number of vessels, domestic and foreign, engaged in this trade of 593, with a tonnage of 917,089.

The following table from custom-house records shows the total number of vessels entering and clearing in the district of Hawaii during the fiscal year ending June 30, 1902:

Ports.	Coastwise. ^a				Foreign.			
	Entered.		Cleared.		Entered.		Cleared.	
	Number.	Tons.	Number.	Tons.	Number.	Tons.	Number.	Tons.
Honolulu	300	454,222	367	511,565	187	376,863	108	288,220
Kahului	9	5,059	25	21,658	16	17,212	8	10,152
Mahukona	13	4,267	16	6,102	4	2,622		
Lahaina	4	2,995	6	4,856	1	976		
Koloa	1	266	12	8,533	2	1,376		
Hilo	56	51,231	55	67,457				
Total	388	518,040	481	620,171	210	399,049	116	298,372

	Entered.		Cleared.	
	Number.	Tons.	Number.	Tons.
Coastwise ^a	388	518,040	481	620,171
Foreign	210	399,049	116	298,372
Total	598	917,089	597	918,543

^a The figures under the title "Coastwise" refer to American vessels doing business between Hawaiian and mainland ports, but do not include vessels engaged in traffic among the Hawaiian Islands.

The following table, obtained from custom-house records, shows the number of vessels entering and clearing in the district of Hawaii, by nationality, for the fiscal year ending June 30, 1902:

Nationality.	Entered.		Cleared.	
	Number.	Tonnage.	Number.	Tonnage.
American	477	626,745	480	628,479
British	75	173,127	77	175,333
Japanese	29	99,875	29	99,875
German	7	11,165	5	7,114
Chilean	1	1,332	1	1,332
Austrian	1	2,070	1	2,070
Norwegian	2	2,186	2	2,186
French	1	589	1	589
Italian				1,140
Total	598	917,089	597	918,543

COMMERCE OF ISLANDS RAPIDLY INCREASING.

That the commerce of the Hawaiian Islands is rapidly increasing, notwithstanding the industrial conditions at the present time are less favorable than formerly, is made clearly apparent by the fact that while the total value of exports of Hawaiian products five years ago (1897) was but \$15,791,106, the total value in exports the past year was \$24,793,735, or an increase in five years in the matter of exports of Hawaiian products of \$9,002,628.23.

RAPID INCREASE IN SUGAR PRODUCTION.

There has been a gradual and, indeed, rapid increase in the production of sugar each year in the Territory of Hawaii. For instance, the

shipments of sugar five years ago, for the fiscal year ending June 30, 1897, were 580,442,240 pounds, while four years later, the fiscal year ending June 30, 1901, the shipments were 690,879,234 pounds, while a year later, that ended June 30, 1902, the present year, the shipments were 720,533,357 pounds, or an increase of 29,674,123 pounds in a single year, and an increase in the shipments of five years ago of 140,091,117 pounds, or an increase of about 108,011 tons in five years.

The exports of sugar amounted in the year 1896 to \$14,932,172 in value, while all other exports—rice, coffee, bananas, wool, hides, pine-apples—only amounted to \$583,058, while for the fiscal year ending June 30, 1902, sugar to the amount of 720,533,357 pounds, of the value of \$23,920,113, was exported. A little over 5,000,000 pounds of rice, of about \$200,000 value, was exported in 1896, while for the year ending June 30, 1902, rice was exported to the amount of 1,210,038 pounds, of the value of \$126,644.

The following table shows the yield of sugar in the Hawaiian Islands each year from 1895 to 1901, both inclusive: also the number of acres cultivated in each of these years and the tons of sugar produced and the yield per acre in pounds:

Sugar yields of the Hawaiian Islands.

Year.	Acres.	Tons of sugar.	Yield per acre.
			<i>Pounds.</i>
1895.....	47,399½	153,419½	6.472
1896.....	55,729	227,093	8.148
1897.....	53,825½	251,126	9.331
1898.....	55,235½	229,414	8.306
1899.....	60,308	282,807	9.378
1900.....	66,773	289,544	8.672
1901.....	78,618½	359,133	9.136

While the following table shows the number of acres cultivated in each of the islands of Oahu, Kauai, Maui, and Hawaii for the year 1901, also the tons of sugar produced in each island and the yield in pounds per acre for the year 1901:

By islands, for 1901.

Island.	Acres.	Tons of sugar.	Yield per acre.
			<i>Pounds.</i>
Oahu.....	13,562	98,897	14.584
Kauai.....	12,886	67,205	10.423
Maui.....	11,400	58,349	10.237
Hawaii.....	40,760	134,682	6.608

From this first table it will be observed there has not only been a gradual increase in the total output of sugar each year since 1895, but a gradual and rapid increase not only in the acreage but in the yield per acre. In these six years there has been an increase of 31,219 acres cultivated in sugar cane in the Territory of Hawaii, the acreage in 1895 being 47,399 acres and in 1901 78,618½ acres, or an increase in acreage in this period of six years of 60.29 per cent; the increase in acreage over that of 1900, the year previous, of 11,845½ acres, or an increase of 17.89 per cent in 1901 over that of 1900.

But not only so these statistics, which we take to be accurate, as they are vouched for by Governor Dole in his last report, show --

increase in 1901 in the average yield per acre over the yield in 1895, six years before, of 2,664 pounds, the average yield per acre in 1895 being 6,472 pounds, while in 1901 the average yield per acre was 9,136 pounds.

The following, taken from the late report of Governor Dole, is a statement of averages of several plantations on the island of Oahu for crop of 1901. This table also gives the average cost of production of a ton of sugar on Ewa plantation at \$34.94, divided as follows:

On account of labor	\$18. 45
Other expenses	16. 49

Yields of rainfall plantations.

Year.	Acres.	Tons of sugar.	Yield per acre.
			<i>Pounds.</i>
1895.....	23, 945	63, 476	5, 518
1896.....	29, 779	109, 644	7, 362
1897.....	30, 724½	133, 820	8, 716
1898.....	30, 728½	91, 692½	5, 954
1899.....	32, 928	116, 392	7, 068
1900.....	39, 682½	124, 257	6, 220
1901.....	43, 878	143, 943	6, 572

The following statement of averages in relation to sugar production was estimated from the reports of three of the largest plantations on the island of Oahu. The items of total cost of irrigation per acre, of irrigation per ton of sugar, of cultivation per acre, and cultivation per ton of sugar were taken from the report of the Ewa plantation alone, other reports not furnishing figures on these items:

Statement of averages of several plantations on the island of Oahu for crop of 1901.

Average yield per acre in tons of sugar.....	8. 44
Average tons of cane per ton of sugar	8. 62
Average pounds of sugar per ton of cane	232. 39
Average cost of production of sugar per ton	\$41. 13
Average cost of irrigation per acre.....	\$35. 72
Average cost of irrigation per ton of sugar.....	\$3. 30
Average cost of cultivation per acre.....	\$265. 01
Average cost of cultivation per ton of sugar	\$24. 28
Average cost, man and containers, per ton of sugar	\$4. 38

The average cost of production of a ton of sugar on Ewa plantation alone was \$34.94, divided as follows:

On account of labor	\$18. 45
Other expenses	16. 49

The following table, also taken from Governor Dole's report, gives the yield of the irrigated plantations:

Yields of the irrigated plantations.

Year.	Acres.	Tons of sugar.	Yield per acre.
			<i>Pounds.</i>
1895.....	23, 454	89, 943½	7, 669
1896.....	25, 950	117, 449	9, 062
1897.....	23, 101	117, 306	10, 151
1898.....	24, 507	137, 595	11, 269
1899.....	27, 380	166, 425	12, 157
1900.....	27, 090½	166, 002	12, 254
1901.....	34, 740½	215, 189	12, 388

For a list of sugar plantations, with their location and agents, respectively, in the different islands attention is called to the Appendix.

It will be observed from this exhibit that the total number of plantations in all the islands is 61, and they are distributed in the different islands as follows:

Hawaii	27
Kauai	13
Nau'i	11
Oahu	9
Molokai	1
Total	61

CONDITION AND TREATMENT OF EMPLOYEES.

Your committee made a careful personal investigation of the condition and treatment of employees at several of the most extensive sugar plantations, including the Ewa and Honolulu plantations on the islands of Oahu, and Olaa, and on the island of Hawaii.

It is the opinion of your committee that good provision in the way of houses is made for all employees. They are, so far as your committee observed, very comfortably housed, and their little communities are kept cleanly, well provisioned with water, and so far as we could ascertain with every necessary of life and health. We found not a single complaint coming from any one of the employees of any nationality. All seemed to be living in a state of contentment and happiness.

WAGES.

The testimony presented to your committee tended to show that the wages of unskilled laborers in Hawaii (reference is now made mainly to field hands on the different plantations) is from 30 to 40 per cent higher at the present time than three or four years ago. Field laborers are paid from \$16 to \$20 per month, depending somewhat on the particular character of work they are called upon to do. In addition to this they are furnished tenement houses, fuel, and medical attendance.

QUARANTINE STATION AT HONOLULU.

The quarantine station on an island some 2 miles from Honolulu, now under the control and management of the Marine-Hospital Service of the Treasury Department of the United States, is admirably located and evidently conducted on the best and most modern scientific principles. Additional buildings and improvements, however, are necessary. Barracks for housing Orientals while detained should be erected; also a laundry plant. There should also be a retaining wall around Quarantine Island. There is need also of a disinfecting wharf. It is believed not less than \$75,000 should be appropriated by Congress for these quarantine purposes; and, in addition, an amount reasonably necessary should be appropriated for its maintenance and the pay of officers and employees. In view of the fact that Honolulu is the halfway house between the American mainland and Asia, and exposed to epidemics, contagious diseases, and plagues of every character, it is of the utmost importance this station should be well maintained.

QUARANTINE STATION AT HILO.

There should be no delay upon the part of the General Government in securing grounds and establishing a quarantine station at or near the city of Hilo, island of Hawaii. This, in the judgment of your committee, is imperative.

THE HAWAIIAN FISHERIES.

The fishing industry in the Hawaiian waters is one of very great importance. There are in the market at Honolulu 88 different kinds of fish, and in the market at Hilo there are 76 different kinds, while, as stated in Governor Dole's report, "both markets have 5 different kinds of other marine animals exposed for food, such as turtle, squid, crab, crawfish, and sea-urchin."

By section 95 of the organic act these fisheries are open to citizens of the United States. Heretofore and until recently, however, all nationalities have exercised the indiscriminate right of fishing in these waters. Recent measures have been taken upon the part of the Government to limit this right upon the part of noncitizens, and to place them under strict regulations prohibiting the use of small-mesh nets and the use of dynamite, which is a great injury to these fishing interests.

In the interest of the promotion and preservation of this great industry in Hawaiian waters great vigilance should be exercised upon the part of the General Government.

Recent scientific explorations in these waters under the direction of the Commissioner of Fish and Fisheries have resulted in much very valuable information. Further explorations of like character should be encouraged by liberal appropriations on the part of Congress.

STOCK RAISING.

While prior to the past two years quite a large number of cattle and sheep have been raised and slaughtered in the different islands for home consumption, but little, until recently, has been done tending to the improvement of breeding in live stock.

Recently, however, a corporation has been organized by leading men interested in this important industry, called "The Hawaiian Live Stock and Breeders' Association," the purpose being to improve the breeding of live stock by introducing superior breeds, new grasses, and protecting and encouraging forest growths, and other aids that tend to promote this industry on scientific principles.

The home product, however, of cattle and sheep has fallen far short of the demand for home consumption in the Territory, and large quantities of beef, mutton, lamb, veal, venison, chickens, and turkeys are imported each year.

The following table taken from the recent report of Governor Dole gives the pounds and value of each of these brought into the Territory the past year.

Meats brought into the Territory (approximate).

	Quantity.	Value.
	<i>Pounds.</i>	
Beef	1, 170, 153	\$104, 303. 45
Corned beef.....		1, 896. 27
Venison (50 carcasses).....	3, 372	2, 409. 92
Veal	169, 366	17, 991. 07
Lamb and mutton	320, 260	31, 536. 96
Turkey, chickens, etc	116, 824	19, 331. 16

NOTE.—The weights mentioned in the foregoing tables are for dressed meats.

The following table gives the number, value, weight, average weight, and average price of cattle and sheep consumed in the city of Honolulu alone the past year:

Consumption of Hawaiian cattle and sheep in Honolulu.

	Number.	Value.	Weight.	Average weight.	Average price.
			<i>Pounds.</i>	<i>Pounds.</i>	
Cattle	4, 996	\$225, 399. 75	2, 352, 841	422. 7	\$40. 10
Calves	588	9, 672. 51			16. 45
Sheep	8, 352	26, 043. 93	279, 315	33. 44	3. 12

	<i>Pounds.</i>
Largest average weight of cattle from any ranch.....	584
Smallest average weight of cattle from any ranch.....	282
Largest average weight of sheep from any ranch.....	38
Smallest average weight of sheep from any ranch.....	29

RAILROAD ENTERPRISES.

There has been within the past few years quite a rapid development in the islands in the way of railroad building. The Hawaiian Railway Company is to-day operating 20 miles of 3-foot track in North Kohala, island of Hawaii. This company has a capitalization of \$50,000, we are advised, and a working capital of \$85,000. Its business consists mainly of carrying plantation supplies, lighterage of freight, and loading of sailing vessels in the port of Mahukona. The charges for freight is 10 cents per ton per mile.

The Oahu Railroad and Land Company was incorporated in 1889, its purpose being to build steam roads on any part of the island of Oahu, and for this purpose a franchise for fifty years was granted to this company. It has already constructed a railroad around the southern side of the island to a point called Kaluku, on the northernmost part of the island of Oahu, and distant from Honolulu about 71 miles. It has certain branches and sidings, so that the road has in operation a total of 84 miles, and it is the intention of the company to continue the construction of the road around the island. This company controls very large acreage of pasturage and sugar lands by long leases, extending from forty to fifty years—in all, over 80,000 acres—and on which are located the Ewa and Kahuku plantations; also a portion of the Honolulu and Oahu plantations.

There are on the line of this road at present six sugar plantations yielding nearly 100 tons of sugar. This road has a track of 3-foot gauge, 48-pound rails. It is stocked with 12 locomotives and 275 cars. The number of passengers carried over this road, according to a late report of Governor Dole, from July 1, 1901, to July 1, 1902, was

437,645, while the number of tons of freight hauled was 308,534. Governor Dole, in his report, says of this company: "During the past two years this company has made extensive improvements on the water-front property, constructing 4,000 linear feet of wharfage, with a depth of water 30 feet. The same are equipped with two warehouses having a storage capacity of 10,000 tons each, and provided with electric conveyors capable of conveying to vessels lying in the dock 250 tons of sugar per hour."

The Hilo Railroad Company was chartered May 28, 1899, with a capital stock of \$1,000,000, and \$850,000 6 per cent coupon 1-20 bonds have been issued. This road has been constructed to Waiakea, on the east side of Hilo Harbor, to Kapoho, in the district of Puna, a distance of 24 miles. This road penetrates the Olaa Sugar Company's plantations. The mill of this company is on the line of this road, 7 miles from Hilo. The road is under further construction to a point within 9 miles of the volcano house, where the elevation of the terminus is 2,300 feet.

This portion of the line is expected to be completed at an early date. This road is equipped with 4 locomotives and 60 cars. There is also connected with this road a first-class machine shop and foundry. Then there is the Kona Kau Railroad Company, which is projecting the construction of a road around the island of Hawaii, with the exception of the Kona and Kau districts. The seacoast terminus of this road will be at Kealahue Bay, and will be about 120 miles in length. Some 30 miles have been surveyed, located, and mapped, and subject to the approval of the governor of the Territory to be contracted for. Grading is now going on, and, we are advised by recent press reports, a contract has been let for the construction of the entire line; the road to be completed in two years.

STREET RAILWAYS.

The Honolulu Rapid Transit and Land Company began operations in August, 1901, with a track mileage of 4.4 miles and within the next year constructed 7.31 additional miles, making a total of 11.70 miles. The construction of the road is being extended to Waikiki, a point on the seashore some 4 miles distant from Honolulu proper.

CUSTOMS AND INTERNAL-REVENUE RECEIPTS AND DISBURSEMENTS.

Your committee made careful examination of all the facts relating to revenues and disbursements of the Territory since annexation, and is greatly gratified to be able to report that the expenses in which the Government of the United States became involved in the process of annexation, including the amount of the public debt of the late republic, amounting to \$4,000,000, assumed, and of this amount paid at the end of the last fiscal year, June 30, 1902, \$2,250,300, and the amount of Postal Savings Bank deposit, the payment of which was also assumed by the United States, amounting to \$764,570.31, are all rapidly being refunded by the revenues to the Government arising from customs and internal-revenue receipts.

The total revenues from Hawaii from July 14, 1900, the date when the organic act went into operation, to March 31, 1902, were as follows:

From customs receipts.....	\$2, 293, 224. 33
From internal-revenue receipts.....	168, 543. 86
Total	2, 461, 768. 19

From this there has been deducted on account of the Territory the following total, \$208,626.83, leaving a net balance in favor of the United States of \$2,253,141.36, or a net revenue over and above all ordinary expenses of about \$95,860.72 per month. (See Appendix.)

From these statistics it is made plainly evident if a corresponding rate of revenues continues until the end of the present fiscal year the United States will be reimbursed for every dollar expended on behalf of annexation.

In this view and in the judgment of your committee the Government of the United States should manifest a liberal spirit in meeting the reasonable and just demands of the Territory for necessary appropriations for improvements of its harbors, the erection of public buildings, and such other reasonable and proper demands for the upbuilding of this our new and interesting possession in midocean.

WIRELESS TELEGRAPHY.

It may be interesting to the Senate to know that a system of wireless telegraphy has, since March, 1901, been established between the islands Oahu, Molokai, Lanai, Maui, and Hawaii. There were many serious difficulties to contend with when the system was first established, but at present a very good service is maintained between Waialua and Molokai, a distance of 29 miles; between Molokai and Lanai, a distance of 15 miles; between Lanai and Lahaina, Maui, 8 miles, and from Lahaina to Mahukouu, Hawaii, 60 miles. This is a very great advantage to the people residing and doing business on the different islands, as the communication by boat is only about twice a week. This, in connection with the completion of the laying of the ocean cable between the mainland and Honolulu, brings all the more important islands of the group into telegraph and cable communication with the mainland of our country and thus materially adds to the commercial, social, and political upbuilding of the interesting Territory of Hawaii.

HAWAIIAN FORESTS.

It is important in the judgment of your committee, for many reasons which will naturally occur to those interested in forest preservation, that the forests of the Hawaiian Islands should, so far as possible, be preserved, and your committee recommends that an expert forester be maintained in the Territory for a sufficient time to enable him, cooperating with the Territorial government, to organize and establish a system for the management, conservation, and development of Hawaiian forests.

THE VETO POWER.

Under existing law the executive of the Territory can exercise the veto power in regard to any matter of legislation by the local legislature, the law requiring a two-thirds vote of each house to enact a law over the veto. Your committee while in Honolulu was pressed very strongly by those representing certain interests (many other interests vigorously protesting, see Appendix), to recommend a change in the law so that it would require a three-fourths vote of each house of the legislature to overcome a veto. This your committee can not conscientiously do. Upon the contrary, it is the opinion of your committee, as has been made apparent by what has been already said in this report that there is to-day too much of the one-man power in this Ter-

It is the opinion of your committee that no harm can come to the Territory or its people by reserving to the legislature the power to overcome a veto of the executive by a two-thirds vote of each house in the legislature. To provide that a veto could be overcome only by a three-fourths vote of each house would be to subtract unwisely from the authority and power of the legislature, and would place increased power in the executive.

POLITICAL PRISONERS.

During the sessions of your committee appeals were made by a number of persons who, during the exciting times of the revolutionary movement in Hawaii, were, by order of the Republic, imprisoned as suspects. These parties have submitted claims for damages alleged to have been suffered both to the late Hawaiian Republic and to the State Department of the United States. It has been held by the State Department that the United States is in no sense liable for these claims, and in the correctness of this decision your committee concurs.

RÉSUMÉ OF RECOMMENDATIONS.

Your committee, in conclusion, begs to present on one page herewith the following recommendations made by your committee:

First. In the event of the failure of the local legislature of Hawaii—which convenes in February next—to provide by law for municipal, county, city, and town organizations, or in the event of such action by the legislature and a successful veto by the executive, your committee earnestly recommends an amendment to the organic act providing directly for county and municipal organizations, or otherwise making it imperative on the Territorial government to make such provision.

Second. That Congress take immediate action suspending the power on the part of the local Territorial government of Hawaii to execute for the present any further lease or leases of either agricultural or nonagricultural lands in the Territory of Hawaii.

Third. That the control, management, and disposition of the public lands in Hawaii be transferred to the Department of the Interior of the United States, the same to be under the control of the Secretary of the Interior and the Commissioner of the General Land Office to the same extent that they exercise jurisdiction and control of the public domain on the mainland.

Fourth. That there be created by Congress an office to be designated as the office of the surveyor-general of the Territory of Hawaii. That the surveyor-general be appointed by the President of the United States, by and with the advice and consent of the Senate, such office to have like jurisdiction and power as has the surveyor-general in the Territory of New Mexico and to receive the same salary, his office to be in the city of Honolulu, island of Oahu.

Fifth. That two land districts be created in Hawaii, and two land offices be established therein, with a register and receiver for each, such registers and receivers to be appointed by the President of the United States, by and with the advice and consent of the Senate, each of said registers and receivers to receive a salary of \$3,000 per annum. One of said districts to include the whole of the island of Hawaii alone, with the land office located at Hilo, on said island. The other district to include all the other islands in the Territory, with the land office located at Honolulu, on the island of Oahu.

Sixth. That the following provision be incorporated in the sundry civil appropriation act at the present session of Congress: "That the sum of \$15,000, or as much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available, to enable the Secretary of the Interior to examine into the laws of the Territory of Hawaii relating to public lands, including the selling, granting, leasing, and other disposition of the public domain, the granting of franchises concerning the same granted or issued by the Hawaiian Government since the date of annexation, and to enable the Secretary of Agriculture to examine into all matters concerning agriculture and forestry, and public roads of said Territory, which duty shall be performed with all convenient speed, and each of said officers shall report to the President of the United States with recommendations upon the matters concerning which he is herein charged. The appropriation herein provided for shall be divided between the Department of Agriculture and the Department of the Interior as the necessities of the investigation of each shall demand.

Seventh. That the land known as the Punch Bowl lands be immediately withdrawn from further lease or sale and for such legislation as will give a preference right of purchase to the parties holding the subleases who have made valuable improvements, at such reasonable prices as may be fixed by a commission to be appointed by Congress or the Secretary of the Interior.

Eighth. That similar action be had as in the Punch Bowl lands, supra, with reference to settlers on that certain parcel of land known as Auwaiolinu.

Ninth. That the organic act be so amended as to put an end to the present mode of filling vacancies on the bench of the supreme court of the Territory of Hawaii.

Tenth. That the organic act be so amended as to permit a writ of error or appeal from the decision of the supreme court of the Territory to the Supreme Court of the United States where the amount involved is of the value of \$5,000 or exceeds that amount, whether a Federal question is involved or not.

Eleventh. The passage of Senate bill 2210, reported by Senator Foraker with amendment last session, and as it passed the Senate March 12, 1902, in regard to Hawaiian silver.

Twelfth. That the General Government assume control of the different harbors and light-house establishments of the Territory, and assume the cost of the establishment and maintenance of the necessary light-houses and buoys, in the interest of commerce in the Territory.

Thirteenth. That the General Government take control and management of the various harbors in these islands, and make the necessary appropriations for the improvement of harbors in Honolulu, Pearl Harbor on the island of Hawaii, the harbor at Hilo, and other minor harbors on the islands.

Fourteenth. That a sufficient appropriation be made by Congress to deepen and widen the channel leading to the harbor at Honolulu.

Fifteenth. That Congress provide for the survey and estimates for the construction of a breakwater from the ocean along Blonde Reef to Coconut Island, for the protection of harbor at Hilo, Hawaii; and that Congress make an appropriation in pursuance of such survey and estimate for the construction of such breakwater for the protection of such harbor.

Sixteenth. That Congress make an appropriation for the construction of a public building at Honolulu sufficient to accommodate the Federal Court, the post-office, the custom-house, and the office of the United States district attorney, United States collector, the United States surveyor-general, the register and receiver of the Land Office, the United States marshal, and other Federal officers.

Seventeenth. That Congress make an appropriation of not less than \$100,000 for the construction of a Federal building for the use of the Federal court, customs house, post-office, and other Federal offices at Hilo, island of Hawaii.

Eighteenth. That Congress appropriate \$75,000 for improvements at the quarantine station near Honolulu and provide at an early date for the purchase of a site and the establishment of a quarantine station at Hilo, on the island of Hawaii.

Nineteenth. The passage of the bill to pay in part judgments rendered under the act of the legislative assembly of the Territory of Hawaii for property destroyed in suppressing the bubonic plague in said Territory in 1899 and 1900, and in authorizing the Territory of Hawaii to issue bonds for the payment of the remaining claims as reported to the Senate July 1, 1902, by Senator Foraker, chairman of the Committee on Pacific Islands and Porto Rico.

Twentieth. The passage of the bill H. R. 11997, first session Fifty-seventh Congress, relating to the Kohala ditch enterprise on the island of Hawaii, with the amendment now pending in the Senate Committee on Pacific Islands and Porto Rico, presented by Mr. Mitchell to the Senate June 9, 1902, and referred to that committee.

Twenty-first. That the management, control, and expense of the leper settlement on the island of Molokai be by law transferred from the territorial government to the Government of the United States, and placed under the control of the Treasury Department, in charge of the Marine Hospital.

Twenty-second. That the territory now occupied as a leper settlement on the island of Molokai be declared a site for a leprosaria for the care, protection, and subsistence of lepers from the Territory of Hawaii and from the mainland of the United States.

Twenty-second. Favorable consideration by Congress of the claim of the late Queen Liliuokalani, now a loyal private citizen of the United States, with a recommendation that such reasonable provision be made for her, by a direct appropriation from the National Treasury, as the facts presented by this report may seem to justify.

Twenty-third. That a bounty of four cents a pound for all coffee produced in the Territory of Hawaii for the ensuing ten years be authorized to be paid to the producers of such coffee during the next ten years.

Twenty-fourth. That section 80 of the organic act be so amended that the governor may suspend any officer for any malfeasance in office without the consent of the senate until the next succeeding session of the senate, and until such senate disapproves of such suspension, and may appoint a person to fill the office in question pro tem. until the matter of removal of the suspended officer is settled.

Twenty-fifth. That provision be made by Congress for the maintenance of an expert forester in the Territory for a sufficient time to enable him in cooperation with the Territorial government to organize and establish a system for the management, conservation, and development of Hawaiian forests.

Twenty-sixth. That Congress provide by law for the appointment of a commission of three members of the bar, one of whom shall be a

resident of the Territory of Hawaii for at least three years, to revise the laws, civil and penal, of the Territory; and to prepare a civil and criminal code for the Territory of Hawaii, and that an appropriation of \$12,000 be made for this purpose.

CONCLUSION.

Your committee, in conclusion, acknowledges itself greatly indebted to each and all of the governmental officials, both Federal and Territorial, and to the representatives of the Army and Navy stationed in the islands, to the citizens and residents generally of all classes, and to the representatives of the press, representing all parties and policies, for their uniform courtesy and invaluable support given your committee in aid of the investigations being made. By their cordial cooperation at all times generously accorded, and for official and other information cheerfully and promptly furnished, your committee was enabled to make a much more speedy and thorough investigation of the various subjects than otherwise would have been possible.

All the sessions of your committee were held with open doors, and there was no disposition at any time upon the part of any official, or in fact anyone, to hold back or keep under cover anything, but, on the contrary, a general desire expressed and manifested on all sides that the investigations of your committee on all subjects coming under its jurisdiction should be full and free, and of the most thorough character.

For a statement of the expenses of your committee, items and total, see Appendix, Exhibit Z.

All of which is respectfully submitted.

JOHN H. MITCHELL,
Chairman.
JOSEPH R. BURTON,
ADDISON G. FOSTER,
JOSEPH C. S. BLACKBURN.

JANUARY 1, 1903.

BA-L-12

HAWAIIAN INVESTIGATION.

Part 2.

TESTIMONY

TAKEN BEFORE THE

COMMITTEE ON PACIFIC ISLANDS AND PORTO RICO,
UNITED STATES SENATE,

UNDER

SENATE RESOLUTION NO. 260, FIRST SESSION FIFTY-SEVENTH CONGRESS, OF
DATE JUNE 28, 1902, AUTHORIZING AND DIRECTING THE COMMITTEE
ON PACIFIC ISLANDS AND PORTO RICO TO INVESTIGATE
THE GENERAL CONDITIONS OF THE ISLANDS OF
HAWAII, AND THE ADMINISTRATION
OF THE AFFAIRS THEREOF.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1902.

HAWAIIAN INVESTIGATION.

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le, until some time in the seventies—I do not remember exactly what year. Then a law was passed that all government lands should be sold at public auction. In 1884 the first homestead act was made, under which homesteaders could obtain land under very generous terms for a certain number of years and certain amount of improvements, with or without residence, and subsequently amended in 1886 and in 1890 and 1892, when in 1895 the present land laws took its place. I know that I was not commissioner of public lands at that time, but they were drawn with the idea to give bona fide homesteaders an opportunity in the islands.

The first condition in the present law is the right of purchase lease, which has a boundary of twenty-one years; but there are conditions here if you live on the land for two years and cultivate 25 per cent of the land you can have title at the end of the third year, or 10 per cent of the land cultivated and the title can be obtained at the end of the fifth year, provided they maintain the required residence, and of course they have twenty-one years to fulfill where they are not prepared to take it up earlier.

Senator MITCHELL. Right at this point would you be able to furnish us, marking them for insertion in the appendix, to be marked A, B, etc., these several laws of which you have just spoken?

Mr. BOYD. Yes, sir; I will endeavor to do so.

Senator MITCHELL. Now proceed.

Mr. BOYD. The next condition under the land law is the cash freehold; these are to be bought at public auction; lands are subdivided and put up at auction from 20 to 100 acres; this condition was made principally for those lands that are limited and require competition; its terms are three years and a residence of two years; at the end of that time they may get title to the land.

Senator MITCHELL. Who fixes the rental?

Mr. BOYD. The lands are appraised in every instance.

Senator MITCHELL. By whom?

Mr. BOYD. By a board of appraisers appointed by the government, consisting of three disinterested parties.

Senator MITCHELL. How about an extension of the lands included, respectively, in these leases; any limit?

Mr. BOYD. They have a limit; yes. In the first-class agricultural lands they can not acquire more than 100 acres; in the second-class agricultural lands not more than 200 acres; the first-class pastoral lands not more than 600; in the second-class pastoral lands not more than 1,200 acres.

Senator MITCHELL. Just at this point, please state the total number of acres of public lands in the islands open to settlement, or sale, or disposition?

Mr. BOYD. That is a hard question to state offhand; of course our lands are so diversified; there is some land that is absolutely useless, as some of our barren lava waste, it is impossible for homestead proposition or anything at all.

Senator MITCHELL. Can you approximate, in the first place, about the total number of acres, without regard to the use to which they may be put? What is the aggregate of the acreage of the public lands in Hawaii?

Mr. BOYD. The total acreage is about 1,200,000.

Senator MITCHELL. What surveys, if any, have been made of these lands?

bearing upon the general question of legislation in the interest of the people and government of the islands.

We shall be glad to hear from you, if convenient and agreeable to you, either in writing or otherwise, at our rooms, on to-morrow, Tuesday, September 9, at 10 o'clock a. m.

We are, with great respect,

JOHN H. MITCHELL, *Chairman.*

A. G. FOSTER.

J. R. BURTON.

Hon. HENRY E. COOPER,

Secretary of the Territory of Hawaii, Honolulu, Hawaii.

The chairman also laid before the committee a copy of the protest of Hon. Edward F. Boyd, commissioner of public lands of the Territory of Hawaii, to Senate bill 1344, first session Fifty-seventh Congress, of date Washington, D. C., February 6, 1902, and addressed to Hon. Binger Hermann, Commissioner of the General Land Office, in which he makes the following statement:

There are, in round numbers, about 1,720,000 acres of public land, and it might seem that some considerable portion would furnish a field for new efforts to make homesteads. But such inference I can not draw. At least 500,000 acres of this area are in the class of positively barren lands that can not be reclaimed, and rugged, inaccessible mountain tracts that are apparently hopeless for homestead purposes. Over 1,000,000 acres are classed as grazing and high forest land, and though no one would be so rash as to say there is no agricultural possibility for at least a portion of this area, the fact remains that such possibility has never been demonstrated by any profitable use of the same.

There remain about 200,000 acres to be considered. About 26,603 acres of this last are cane and rice land. The remainder is, in general, not so good as the lands already disposed of, being more broken and difficult of access. Unless some new and productive industry is developed in the country it is difficult to see why future results should differ greatly from those of the past. At least I do not expect to see much difference.

HONOLULU, HAWAII, *September 8, 1902.*

Hon. EDWARD, S. BOYD, commissioner of public lands for the Territory of Hawaii, being first duly sworn by the chairman of the committee, testified as follows:

Senator MITCHELL. Mr. Boyd, state what official position you hold, if any, and how long you have held it.

Mr. BOYD. Commissioner of public lands of the Territory of Hawaii since May 1, 1901.

Senator MITCHELL. Are you a native Hawaiian?

Mr. BOYD. Yes; I am a native of the islands.

Senator MITCHELL. What is your age?

Mr. BOYD. Thirty-four.

Senator MITCHELL. Have you resided in the islands all your life?

Mr. BOYD. Yes, sir.

Senator MITCHELL. Mr. Boyd, state in your own way and as briefly as possible the present condition of the land laws—I mean the laws relating to the disposition of the public lands of the Territory.

Mr. BOYD. We have a land law that was drawn in 1895 and passed by the then Government, Republic of Hawaii, to meet the local condition; the then officials of the Government recognized that the public lands must be disposed of under conditions other than those that had been disposed of heretofore—that is, more generous conditions.

Senator MITCHELL. Just at that point recite what were the conditions of the land laws prior to this legislation of which you speak. In what way were the public lands disposed of under the old laws?

Mr. BOYD. From 1848 there were no land laws practically; the government sold land at their own discretion, at private sale, or auction

sale, until some time in the seventies—I do not remember exactly what year. Then a law was passed that all government lands should be sold at public auction. In 1884 the first homestead act was made, under which homesteaders could obtain land under very generous terms for a certain number of years and certain amount of improvements, with or without residence, and subsequently amended in 1886 and in 1890 and 1892, when in 1895 the present land laws took its place. I know that I was not commissioner of public lands at that time, but they were drawn with the idea to give bona fide homesteaders an opportunity in the islands.

The first condition in the present law is the right of purchase lease, which has a boundary of twenty-one years; but there are conditions where if you live on the land for two years and cultivate 25 per cent of the land you can have title at the end of the third year, or 10 per cent of the land cultivated and the title can be obtained at the end of the fifth year, provided they maintain the required residence, and of course they have twenty-one years to fulfill where they are not prepared to take it up earlier.

Senator MITCHELL. Right at this point would you be able to furnish us, marking them for insertion in the appendix, to be marked A, B, etc., these several laws of which you have just spoken?

Mr. BOYD. Yes, sir; I will endeavor to do so.

Senator MITCHELL. Now proceed.

Mr. BOYD. The next condition under the land law is the cash freehold; these are to be bought at public auction; lands are subdivided and put up at auction from 20 to 100 acres; this condition was made principally for those lands that are limited and require competition; its terms are three years and a residence of two years; at the end of that time they may get title to the land.

Senator MITCHELL. Who fixes the rental?

Mr. BOYD. The lands are appraised in every instance.

Senator MITCHELL. By whom?

Mr. BOYD. By a board of appraisers appointed by the government, consisting of three disinterested parties.

Senator MITCHELL. How about an extension of the lands included, respectively, in these leases; any limit?

Mr. BOYD. They have a limit; yes. In the first-class agricultural lands they can not acquire more than 100 acres; in the second-class agricultural lands not more than 200 acres; the first-class pastoral lands not more than 600; in the second-class pastoral lands not more than 1,200 acres.

Senator MITCHELL. Just at this point, please state the total number of acres of public lands in the islands open to settlement, or sale, or disposition?

Mr. BOYD. That is a hard question to state offhand; of course our lands are so diversified; there is some land that is absolutely useless, as some of our barren lava waste, it is impossible for homestead proposition or anything at all.

Senator MITCHELL. Can you approximate, in the first place, about the total number of acres, without regard to the use to which they may be put? What is the aggregate of the acreage of the public lands in Hawaii?

Mr. BOYD. The total acreage is about 1,200,000.

Senator MITCHELL. What surveys, if any, have been made of these lands?

Mr. BOYD. Some have been surveyed under the homestead laws, some have not, but the contour lines are about all fixed.

Senator MITCHELL. By natural boundaries?

Mr. BOYD. Several of them run from sea to mountain; they are so scattered about among public and private lands that sometimes it is very hard to tell what is public and what is private lands.

Senator MITCHELL. You have had no regular system of providing for survey of the public lands?

Mr. BOYD. We have regular surveys of every public land that is subdivided; it is recorded in the surveyor's office, and it is there for inspection. Of course since 1848 the surveys were of the obsolete character, and the boundaries run into one another, and during the past few years it has caused a lot of trouble and contention among the private owners; but now the surveys are carried on on a regular system.

Senator MITCHELL. What official, if any, represents the public lands in reference to the surveys?

Mr. BOYD. There is a surveyor in the Territory.

Senator MITCHELL. He is a Territorial official?

Mr. BOYD. Yes, sir.

Senator MITCHELL. Who is the present surveyor?

Mr. BOYD. Walter E. Wall.

Senator MITCHELL. When was his office provided for—created?

Mr. BOYD. By the organic act; by the act making the Territory?

Senator MITCHELL. By whom is he appointed?

Mr. BOYD. By the governor, and confirmed by the Senate.

Senator MITCHELL. The President of the United States has nothing to do with it?

Mr. BOYD. No, sir.

Senator MITCHELL. When any land is selected, then, for lease or purchase, as the case may be, it is surveyed, is it?

Mr. BOYD. It is surveyed by the Government surveyor; yes, sir.

Senator FOSTER. How are the initial points of these surveys created? You have no latitude—

Mr. BOYD. Yes, sir; they are established all over the islands, with the primary triangulation stations from which surveys are made, and each survey at the present time to be accepted by the Government survey office must be in reference to these stations.

Senator FOSTER. And all of his field notes will appear on his records?

Mr. BOYD. Yes, sir. Of course we have under the present law a right to sell at cash sale—that is, outright sale at public auction—such as sites for permanent improvements, reservoirs, mills, where there is a sugar industry or other industry, so as to obtain title to make such improvements, and grants the Territory the right to do so.

Senator MITCHELL. How is the title obtained to these large plantations, these sugar plantations?

Mr. BOYD. They obtain title, if under lease, some of them by lease from the government. Now, in the instances where plantations are owned in fee simple they have acquired title from the original owners since the first division of the lands in the islands, a great deal of it—in fact, they were divided in equal parts to private holders, to chiefs, to the Crown, and the government.

Senator MITCHELL. When was that?

Mr. BOYD. In 1848, by an act of the Hawaiian legislature.

Senator MITCHELL. All of the public lands of the realm were then divided?

Mr. BOYD. No; the lands of the islands before 1848 were owned by the Sovereign—by the ruling Sovereign. In 1848 an act was passed in the legislature granting the right to the land commissioner to grant private rights; also the chiefs reserved theirs; the King reserved what was called crown lands for the ruling Sovereign, then the government lands.

Senator MITCHELL. That was in 1848?

Mr. BOYD. Yes; went through regular process of what the law required—that is, Land Commissioner Wall—and by settlement of government lands, commutation patents were issued.

Senator MITCHELL. That is where the title originated, so far as private parties are concerned?

Mr. BOYD. Yes, sir.

Senator MITCHELL. They hold title in fee then, and these planters came in later and purchased from these parties; therefore they hold their title to a portion of the lands only, but have leased others?

Mr. BOYD. No, sir. Take, for instance, in years back from 1848 to 1870 or 1880, the government of course were granting great concessions, sold land to great plantations just to promote enterprises; of course to-day these enterprises have under lease many, practically some of the best, of our lands, and they are paying in taxes to the Territorial government which goes toward public improvements.

Senator FOSTER. They were pretty liberal at that time in their donations?

Mr. BOYD. Yes, sir. We have also a special agreement and condition that gives authority to the official administering the public lands, at his discretion, to do away with the residence clause and only require cultivation, or either, in cases where people want house sites along the beaches, or in the suburbs where they only want it for residence; and it has in some instances been very successful and has given a great deal of satisfaction—that is, land was improved by good people who have made their homes on it; this does not apply to agricultural lands, unless it is simply a piece sandwiched in by private parties, then it is sold at auction.

Senator FOSTER. When the lands are under lease, when is the lease money paid?

Mr. BOYD. It is paid into the Territorial treasury.

Senator FOSTER. When, at once?

Mr. BOYD. Agricultural lands five years, payable semiannually in advance, and the land is only leased for five years; that is a requirement by the last law. Now, in regard to the public lands of Hawaii, of course the laws have been up before Congress for the enactment of legislation in regard to the public lands, but there has been no complaint against our present laws, not even from the homesteaders, and not even from the residents of this Territory. I do not think there is anybody in the Territory that will say a bad word against the present land laws. We all know that the United States has gone away out of its way in enacting section 73 of the organic act, transferring authority to the Territory officials, also section 91. Under the joint resolution of annexation there was a special provision in that resolution that the proceeds and revenues of all public lands should be paid into the treasury of the Territory of Hawaii for public uses; consequently in enacting the law, I think that it had a great bearing with the members of Congress at that time, to enact that special law, transferring the authority of administering the public lands in the Territory of Hawaii, subject, however, to other provisions made

by Congress. Now we depend a great deal on the revenues from these lands; under this law, looking it through, arbitrary appraisement would be very detrimental.

Senator MITCHELL. You are speaking of the pending bill, 3090 in the House and 1344 in the Senate.

Mr. BOYD. Arbitrary classification and arbitrary appraisement would work injury to the Territory in the first instance. There is also a provision in there that the surveyor of public lands should be stationed in the town of Hilo, which would be far away from the seat of government. This would naturally be the proper place for that office.

Senator FOSTER. More public lands down there than here?

Mr. BOYD. Yes, sir, indeed; and as I say, these revenues from these lands; we want to put the lands to the best advantage and get the best out of it, also doing the best by the homesteaders.

Senator MITCHELL. Mr. Boyd, can you state approximately the amount of money received from leases or sales of public lands the last year or two?

Mr. BOYD. It has amounted to over \$100,000.

Senator FOSTER. How much of that from leases?

Mr. BOYD. Between seventy and eighty thousand dollars from leases.

Senator MITCHELL. These appraisers are not Hawaiian officials?

Mr. BOYD. No, sir; they are selected and appointed by the commissioner of public lands, also with the approval of the governor.

Senator MITCHELL. What compensation is made them for their services?

Mr. BOYD. About \$6 a day, including their expenses; two are disinterested parties and one is a Government official—whoever represents the land office in that particular instance or district.

Senator MITCHELL. Have you deputies in the different parts of the islands; and if so, how many?

Mr. BOYD. Yes, sir; I have five under me now; the first land district, the second land district, the third land district, the fourth land district, and the fifth land district.

Senator MITCHELL. What is your salary?

Mr. BOYD. Thirty-six hundred dollars a year.

Senator MITCHELL. What do the deputies get?

Mr. BOYD. They average from \$100 per month to \$40 per month.

Senator MITCHELL. How is that regulated?

Mr. BOYD. It is a fixed salary.

Senator FOSTER. Fixed on the amount of the business they do?

Mr. BOYD. Yes, sir.

Senator FOSTER. These deputy surveyors only get pay when they are at work?

Mr. BOYD. While they are at work in the field. We do not criticise the United States land law and object—

Senator MITCHELL. You are familiar with the two pending bills, are you—the one, H. R. 3090, first session, Fifty-seventh Congress, introduced by your Delegate, Mr. Wilcox, and the other, Senate bill 1344, first session, Fifty-seventh Congress, introduced by Senator Mason in the Senate?

Mr. BOYD. Yes, sir; I am.

Senator MITCHELL. They are duplicates, are they?

Mr. BOYD. Yes, sir.

Senator MITCHELL. Please state briefly your objections, if any, to these bills.

Mr. BOYD. I desire to repeat my statement before the Senate Committee on Pacific Islands and Porto Rico on the 10th day of March, 1902.

Senator BURTON. Do you think there should be any Federal law passed controlling the public lands of the Territory of Hawaii?

Mr. BOYD. Well, I think that inasmuch as the revenues of the public lands should eventually come to the Territorial treasury, I think that the administration of the public lands should be vested in the Territorial officials, with a provision that Congress might always make other provisions in regard to it, Congress having the supreme authority in regard to public lands. While we do not want to say that the authority should be transferred to Washington, but yet we are jealous of our revenues, and we would like to administer them for the benefit of the Territory, with the authority in Washington, naturally, being so far away, and that the Commissioner of the General Land Office there would like to do all he can for this Territory, I am sure of that, because the statements there can be proven. He has taken an interest in regard to the lands of Hawaii and has discussed the matter in his report; and the person administering the public lands is responsible to the people of the Territory of Hawaii and whom the revenues are to benefit.

Senator BURTON. Where do these revenues go now?

Mr. BOYD. It goes into our public improvements, into our schools.

Senator FOSTER. Into your general fund?

Mr. BOYD. No, sir. We have two distinct classes of revenue from the land office; that is, land revenue and land sales. The land sales represent the purchase price of each piece of public land, and is deposited in the Treasury as a sinking fund to pay back our indebtedness, under laws that may be created by the Territory of Hawaii. Our land revenues are mainly derived from leases, interest, rentals, fees, and are expended in our public improvements, schools, and other public purposes.

Senator BURTON. If it was not for the question of the revenues going to the government of Hawaii, or if the same amount was supplied by the General Government in any other way, why, the question of controlling the public domain here might just as well be in the Federal Government as in the local government?

Mr. BOYD. It can be administered just as well by the Federal Government as the local government, but for the revenue; in other words, that the laws should be drawn, even if under the Federal authority, the laws should be drawn to suit our conditions. The United States land laws are not applicable here.

Senator BURTON. Can you form a law that you think would be applicable to the conditions here?

Mr. BOYD. Well, I don't pretend to be a person of the legal fraternity, but I would not go away beyond the present land laws, excepting with a few alterations to make it more decided.

Senator BURTON. When you say the present land laws, you mean the land laws of the Territory?

Mr. BOYD. Yes, sir; the land laws of the Territory.

(Mr. Boyd was excused until 10 o'clock to-morrow, September 9, 1902.)

A memorial from the Builders and Traders' Association of Honolulu, Hawaii, was presented and read.

The committee then adjourned until 10 o'clock to-morrow, Tuesday, September 9.

HONOLULU, HAWAII, *September 9, 1902.*

The committee met at 10 o'clock a. m. on this date, September 9, 1902, pursuant to adjournment.

Governor Sanford B. Dole, governor of the Territory of Hawaii, being present, presented a short letter and read the same to the committee; he also presented to the committee three copies of the land act passed in 1895, and which he states had been slightly amended. He stated this was all he had to present at the present time, but would be glad to be called upon for any further information the committee might desire.

SEPTEMBER 9, 1902.

EXAMINATION OF EDWARD S. BOYD, COMMISSIONER OF PUBLIC LANDS—Resumed.

Senator MITCHELL. You may state, Mr. Commissioner, if there is anything further you desire to present to the committee; and if so, you may proceed.

Mr. BOYD. I stated about our lands, and the only thing I ask is for the Commission to inspect some of our lands and they would justify my words. The total area of the land on the island is 4,127,000 acres, and the Government interest is 149,500; the crown lands are 1,619,000 acres; private rights, 28,600 acres.

Senator MITCHELL. On which island are those lands?

Mr. BOYD. On the islands of Hawaii and on Maui. Most of the government land is on Kauai, but it is under lease. When these leases expire we take them up and subdivide them into homesteads. This has been done on the island of Hawaii at Olaa, which I hope you will see; also at Puna, also on the island of Hawaii. We have at the present time over 600 homesteads. Two-thirds are making their own living on the land. As I before remarked, the island of Kauai has most of the land, but it is leased, and when the leases expire will in time make good homesteads. After we were annexed the United States land law was not put in force here. The Commission who came for the purpose of investigating the matter saw that it was impossible here.

Senator MITCHELL. What did they report?

Mr. BOYD. They reported that the United States land laws were not applicable here.

Senator BURTON. Have you made any leases lately of public lands?

Mr. BOYD. I have; such as arid lands.

Senator BURTON. Have you made any leases for longer than five years?

Mr. BOYD. No, sir; not agricultural.

Senator BURTON. Have you leased lands to plantations?

Mr. BOYD. Yes; for a good profit.

Senator BURTON. For how long?

Mr. BOYD. Five years.

Senator BURTON. Have you made any leases for longer?

Mr. BOYD. No, except grazing lands, and there the law gives us a limit of twenty-one years.

Senator BURTON. Well, did you lease some lands to Mr. Baldwin?

Mr. BOYD. Yes, we have; we leased him 20,000 for a water privilege on an inaccessible side of a mountain unfit for any agricultural purposes. It would be a danger to life and limb to go over that land.

Senator BURTON. That water is taken to cultivatable or agricultural lands below, isn't it?

Mr. BOYD. Yes.

Senator BURTON. You leased that for twenty-one years?

Mr. BOYD. Yes.

Senator BURTON. And it controls this agricultural land below?

Mr. BOYD. It controls some fee simple lands.

Senator BURTON. Wouldn't you regard that as an evasion of the law?

Mr. BOYD. No.

Senator BURTON. If you lease the water land for a period of twenty-one years that gives life to the agricultural land, don't you evade the law?

Mr. BOYD. No, sir; I don't think so.

Senator BURTON. I don't know your laws except as you have explained them to me, but I understood that agricultural leases can not be for longer than five years, is that right?

Mr. BOYD. This land has no agricultural properties, this land that has been leased for the water privileges; it has to be diverted miles and miles away to the western side of the island before it can irrigate any agricultural lands.

Senator BURTON. It is immaterial where it is taken, it is the life of the agricultural land which it irrigates?

Mr. BOYD. Yes, sir.

Senator BURTON. Now, your law requires that no corporation shall obtain a lease of more than how many acres?

Mr. BOYD. They can not acquire more than 1,000 acres.

Senator BURTON. Of any kind of land?

Mr. BOYD. It don't make any difference, but it has been held——

Senator BURTON. Does it also provide that in case it is leased in the name of an individual and then transferred to a corporation?

Mr. BOYD. No, sir.

Senator BURTON. Then if you would lease, say, this 20,000 acres, to one man for a period of twenty-one years, nothing would hinder him from transferring it to a corporation and the corporation would own it?

Mr. BOYD. No.

Senator BURTON. Then the purpose of the law in that way is easily evaded?

Mr. BOYD. Well, yes, if you take it in that way. In that way, yes, they can evade the law.

Senator FOSTER. Has it been done here at all?

Mr. BOYD. No, sir; not to my recollection.

Senator MITCHELL. Now, about the Punchbowl lands, what are the Punchbowl lands?

Mr. BOYD. They were formerly known as crown lands.

Senator MITCHELL. They are leased by the Kapiolani estate?

Mr. BOYD. Yes; they hold them under lease.

Senator MITCHELL. From the governor of the Territory?

Mr. BOYD. No, sir; from the commissioner of the crown land.

Senator MITCHELL. When was that made?

Mr. BOYD. Some time in the eighties, I couldn't say exactly.

Senator FOSTER. These leases are expiring right along?

Mr. BOYD. Yes; right along.

Senator MITCHELL. The Kapiolani estate, limited, is a corporation, isn't it?

Mr. BOYD. Yes; it is a corporation.

Senator MITCHELL. What do you know about that estate leasing a lot of these lands to the Portuguese?

Mr. BOYD. They do that.

Senator MITCHELL. These leases, as I am advised, expire in 1912?

Mr. BOYD. Yes.

Senator MITCHELL. August 15, 1912?

Mr. BOYD. Yes, sir.

Senator MITCHELL. These leases would—those leases made to the Portuguese would not extend beyond the limit of the lease in 1912?

Mr. BOYD. No, sir.

Senator BURTON. Mr. Boyd, why do you think the officers who make disposition of the public lands here should be appointed by the local authorities?

Mr. BOYD. Well, as I stated the other day in regards to the revenue, and also in regard to the conditions and general features, it should be administered by the local authorities.

Senator BURTON. That means that the Territorial government here should engage in the land business for the sake of the revenue?

Mr. BOYD. All governments are in the land business to some extent; so is the United States.

Senator BURTON. Not for the sake of the revenue.

Mr. BOYD. But this is a Territory that is dependent on the revenue.

Senator BURTON. That comes back to your stand that the public lands should be held for the benefit of the Territorial government.

Mr. BOYD. And under the supervision of Congress. Congress should have the right to make such laws as in their discretion they see fit. Of course we ask you to keep the same laws in effect now.

Senator BURTON. How do you get your office; are you appointed by the governor?

Mr. BOYD. Yes, sir.

Senator BURTON. For no particular length of time?

Mr. BOYD. No, sir.

Senator BURTON. He could remove you to-morrow, couldn't he?

Mr. BOYD. He would have to get that through the Senate.

Senator BURTON. Well, the governor has the right of removal, hasn't he?

Mr. BOYD. Yes, sir.

Senator BURTON. What I am trying to get at is that you hold your office at the will of the governor?

Mr. BOYD. Yes, sir.

Senator BURTON. And in a practical way the governor controls the entire land business of the Territory?

Mr. BOYD. He is the head of the government.

Senator BURTON. He is not only that, but he also controls the land department. Now, the revenue is derived from these public lands?

Mr. BOYD. A good part of it.

Senator BURTON. About \$100,000 a year?

Mr. BOYD. Yes. In regard to the governor having control of these lands, he has the approval of them, and in all such matters I think two men should have the supervision over such an important matter.

Senator MITCHELL. What the Senator is getting at is, suppose the governor to-morrow nominated some other man to the Senate for the position which you hold, and the Senate refused to support him, can he remove you then?

Mr. BOYD. He can not remove me until the matter is brought before the Senate.

Senator MITCHELL. If the Senate refuses to name a successor you would have the right to remain?

Mr. BOYD. Yes, sir; until my successor is appointed.

Senator MITCHELL. What is your salary?

Mr. BOYD. My salary is \$300 a month.

Senator MITCHELL. What assistants have you, if any, and what are their salaries?

Mr. BOYD. I have a chief clerk that gets \$175 a month, a responsible position of collecting the money, and he is under bond; I have an assistant clerk who gets \$100 a month; I have messenger, also a clerk, that gets \$75 a month; I have a subagent of the first land district that gets \$100 a month, a ranger that gets \$50 a month; subagent in second land district that gets \$50 a month, ranger that gets \$30; third land district subagent that gets \$40 a month, ranger that gets \$30 a month; fourth land district subagent that gets \$50 a month, ranger at \$30 a month; fifth land district ranger at \$30 a month. That is all.

Senator MITCHELL. These appointments are all made by you?

Mr. BOYD. Yes, sir.

Senator MITCHELL. How are the salaries fixed?

Mr. BOYD. By the special terms of the appropriation.

Senator BURTON. What is the total expense of your office?

Mr. BOYD. The expense of our office averages about \$5,000 to \$6,000 for two years.

Senator BURTON. The salaries of your office alone amount to that. I want the total expense of your department.

Mr. BOYD. The total expense is about—I don't think it exceeds \$12,000. I can get that out in a very little while.

Senator BURTON. I would like to have the total expense and the total income, including everything.

Mr. BOYD. That is, should I give you the year's report of the expenditures and the income?

Senator BURTON. Yes.

Mr. BOYD. For the year ending June 30; that is our fiscal year.

Senator BURTON. Yes. Give me the total income and the total expenditures.

Senator MITCHELL. Is there any specific appropriation made for your office for contingents?

Mr. BOYD. No, sir.

Senator MITCHELL. Incidental expenses?

Mr. BOYD. Yes; we have.

Senator MITCHELL. How much is that?

Mr. BOYD. Five thousand two hundred and fifty dollars.

Senator MITCHELL. That is outside of and in addition to the salaries?

Mr. BOYD. Yes, sir; for two years.

Senator MITCHELL. Preliminary roads and trails, \$7,000.

Mr. BOYD. That is another item.

Senator MITCHELL. Any other item?

Mr. BOYD. There is \$300 for filing certificates of boundary.

Senator BURTON. I wish you would present that to me in itemized form, including everything.

Mr. BOYD. Now, allow me to say there is another expense—that is, of the surveying department. That is under the surveyor of the Territory.

Senator MITCHELL. How much is that?

Mr. BOYD. I think the whole amount is \$48,000 for two years.

Senator MITCHELL. Who is the present surveyor?

Mr. BOYD. Walter E. Wall.

Senator MITCHELL. Thank you; that is all.

Hon. HENRY E. COOPER, secretary of the Territory of Hawaii, being first duly sworn by the chairman of the committee, testified as follows:

Senator MITCHELL. State your name, age, and the official position you now hold.

Mr. COOPER. Henry E. Cooper; age, 45; secretary of the Territory of Hawaii.

Senator MITCHELL. How long have you been secretary?

Mr. COOPER. Since June 14, 1900.

Senator MITCHELL. You may now proceed, Mr. Secretary; state in your own way what you wish to say on your own account for the information of the committee.

Mr. COOPER. I think I would prefer to take up the question of appropriations first that have been asked for from Congress. One important matter is that of light-houses. The present light-houses are being maintained by the Territorial government, which I believe is not the case in any other part of the United States, and the present structures are very insufficient for the purposes of commerce. I recommended to the—

Senator FOSTER. Has the Light-House Board ever been here, or any part of them?

Mr. COOPER. No; they have never been here. While I was in Washington, during the months of September and October of last year, I had a conference with the Light-House Board and they approved all of the recommendations I had asked for in the way of appropriations, and they went in with the approval of the Secretary of the Treasury also, but none of them were acted upon. I have here a copy of the estimates that were sent in last year, and I will furnish you with a written copy, as well as my statement in regard to them—of course my time was short; I only received your letter this morning at 9 o'clock. I did not know that you would care perhaps to take up these things before you received a printed copy.

Senator MITCHELL. No; you proceed in as condensed form as possible.

Mr. COOPER. One of the most important new lights will be one upon the point of Mokapu, island of Oahu. Almost the entire commerce from the Pacific coast comes through the channel between the islands of Molokai and Oahu, amounting to many hundred vessels during the year, and there is no light-house whatever on the exposed point of this island. There is a very small light on the farther point of the island of Molokai, which, however, is not distinguishable more than 4 or 5 miles. Just before the change of government took place the republic of Hawaii had procured estimates for the erection of a first-class light at this point, Mokapu; estimated cost \$10,000. That would carry a lens of the third order, showing a fixed white light with red sectors, covering a safe distance from shore. The point is high, and good building stone is abundant in the vicinity. That I consider one of the most important additions to our light-house service that can be asked for.

Senator MITCHELL. Was there any bill introduced into either House of Congress last session looking to appropriations for these light-houses?

Mr. COOPER. My impression is that it was simply raised on the recommendation of the Secretary of the Treasury, with the approval of the Light-House Board. Another light is wanted at Kaluhui, Maui; estimated cost \$20,000. There is no light-house at all on the exposed coast of Maui. Approaching Kaluhui Harbor is not safe at night, as the coral reef is close to the entrance.

Senator FOSTER. Are there any buoys there?

Mr. COOPER. There is one, maintained by the steamship company, I think—not by the government. The depth of water on this reef hardly exceeds 1 fathom at high tide. It is proposed to construct this light-house of concrete, with a stone tower. The proposed lense would make the light visible for 10 miles. Another light is desired on the coast of Puua, Hawaii; cost estimated at \$10,000. The coast south-east of Hilo Bay is low, and a light on Lelewi Point will be of great assistance to ships approaching the bay. A stone tower is suggested, with a fixed white light at an elevation of 70 feet, with a lens of the third or fourth order; there then should be no danger for mistaking this light for the light on Alia Point, near Pepeekeo, on the other side of the bay. Next, a light at Kailua, Hawaii. This light is more particularly for local commerce, and not so important as the others. These other lights I have been speaking of are for the use of the mainland commerce, a light of the sixth order, estimated to cost \$5,000.

In addition to these light-houses which were recommended last year, there is now a request from the superintendent of public works for a new light in Honolulu Harbor. You perhaps may have noticed it is a very small affair, right here in the harbor.

Senator MITCHELL. What is the estimate?

Mr. COOPER. The estimate for this light is \$4,000. The light on Diamond Head is the only first-class light we have in the country.

Senator FOSTER. Do you know what that light cost on Diamond Head?

Mr. COOPER. I think the light, with its reconstructed base, cost about \$15,000. It was first built on an iron stand or derrick, that was afterwards filled in with masonry. The lens is of the first order and was manufactured in France, if I recollect.

Senator MITCHELL. Please state the necessity for this last light you speak of, briefly. What good offices would it fill?

Mr. COOPER. The present light consists of a red light on Light-House Island, this one here [indicating], and a green light over the custom-house. That is to give the range coming in for vessels entering the harbor. The island light is a wooden tower, erected on coppered piles, and is in a dilapidated condition, and needs reconstructing and raising, and the Myrtle boathouse has been placed in a location that shuts off the light, and vessels can not pick it up until just off the harbor entrance. The island light is a carbide gas light, the only one in operation in the Territory, and is proving satisfactory. The green light on the custom-house is an ordinary 3-inch B. & S. oil lamp; the repairs and reconstruction are estimated at \$4,000. The cost of maintenance of the lights by the Territory during the year ending June 30, 1902, was \$1,048.10; salaries of light-house keepers for the same period was \$4,722.

Senator MITCHELL. This is being paid by the General Government?

Mr. COOPER. By the Territorial government wholly, every cent of it. Repairs on Government light-houses, \$1,054.88, total, \$6,727; average monthly expenses, \$562.58. The Light-House Board were unanimous in recommending that the light-houses be taken over by

the General Government, and also seconding the recommendation which I had in this estimate for a light-house tender.

Senator MITCHELL. Well, why has not the General Government assumed this responsibility?

Mr. COOPER. Simply because there has been no appropriation passed by Congress.

Senator MITCHELL. Has there been any effort made upon the part of the Territorial government to get the General Government to assume this liability—referring to the maintenance of light-houses?

Mr. COOPER. On two occasions a request has been signed by myself as secretary of the Territory, in letters backed up by similar estimates; once in 1900 and the other in 1901.

Senator MITCHELL. Any action ever taken on that by the Secretary of the Treasury?

Mr. COOPER. In both instances he has recommended to Congress that the appropriation pass.

Senator MITCHELL. The fault, if any, then, is with Congress, is it?

Mr. COOPER. The recommendations have been made, I am sure, for the appropriations of the funds, and to take over all the light-houses by the Federal Government, and the recommendations have been seconded by the Light-House Board; just where the slip has occurred, I do not know, whether lost in committee or whether the committee refused to recommend it.

Senator MITCHELL. Now, you stated a moment ago, I believe, the total cost of maintaining your light-houses for the last year. What is it for all the islands?

Mr. COOPER. Total cost, \$6,727.

Senator MITCHELL. What is the total estimates of the appropriations you think ought to be made for the construction of new light-houses and the reconstruction of the old ones?

Mr. COOPER. Forty-nine thousand dollars.

Senator FOSTER. What is your estimate of the cost of the tender?

Mr. COOPER. My recollection is it was \$125,000.

Senator MITCHELL. Have you any revenue cutter about here?

Mr. COOPER. No, sir; that was also recommended in conference with that branch of the service. I think they thought the estimates were too small in both instances. I think the revenue cutter was estimated at \$200,000 by the Bureau having charge. My recollection also is that the light-house tender was also raised to \$150,000. That is my recollection only.

Senator MITCHELL. What else, Mr. Secretary?

Mr. COOPER. Next came the dredging of Honolulu Harbor inside the lines established by the Secretary of War.

Senator MITCHELL. Have there been harbor lines established here by the Secretary of War?

Mr. COOPER. Yes, sir, Mr. Chairman; I have here maps of it.

Senator MITCHELL. Had the local government established harbor lines prior to that?

Mr. COOPER. Only in a way, so it was established from time to time.

Senator MITCHELL. What I want to know about it is, is there any conflict between the lines established by the local authorities and the lines established by the Secretary of War under the act of Congress?

Mr. COOPER. Only in one respect. The estimates for dredging the harbor, as submitted by myself for the year ending June 30, 1902, was \$200,000.

Senator FOSTER. Does that include all the dredging?

Mr. COOPER. Yes; that was asked for at that time for the whole harbor; no appropriations were obtained from the Federal Government and the Territory has expended \$61,058.

Senator MITCHELL. Since when?

Mr. COOPER. During the last fiscal year, up to June 30, 1902. The broken dotted line [indicating on map] is representing the harbor line as established by the Secretary of War. This long broken line [indicating] without the dots designates the section of the harbor in which the Territorial funds have been expended.

Senator MITCHELL. Can you attach this map and make it a part of your testimony?

Mr. COOPER. Yes, sir. [Witness points to map marked "Exhibit A" and made a part of his testimony] The estimate for the coming year is \$250,000; now, when I refer to the map, which I may call Exhibit B, showing more exactly the location of the portion of the harbor actually dredged by Territorial funds, it is marked on the map Exhibit B "portion between lines dredged by Hawaiian Government to the depth of 30 feet below low water." It was the intention to carry out the dredging according to the scheme marked on Exhibit A, extending the dredging along to a point between the end of the Pacific Mail wharf and the light-house, but our funds became exhausted and therefore it was not completed. Referring again to Exhibit B, it shows the portion necessary to be dredged, which we suggest it is the province of the Federal Government to do, "Harbor between United States harbor lines to bar to be dredged to depth of 30 feet below low water;" also showing the proposed change in the harbor line by which the light-house will be removed to a point inside of the broken dotted line.

Senator MITCHELL. Do ships go in and out of this harbor at all hours of the day and night?

Mr. COOPER. Well, I think they could perhaps, but on account of the quarantine regulations they are not allowed to.

Senator MITCHELL. I mean so far as the depth of water and tides are concerned, could ships go in and out, if not hampered by quarantine regulations, at any time day and night?

Mr. COOPER. I think there is sufficient buoys and sufficient depth of water to enable any ship to—steamship at least—to come in at any time; sailing vessels, of course, require the service of a tug.

Senator MITCHELL. What can you say in regard to the ownership or claim of ownership of lands lying along these harbor lines?

Mr. COOPER. Well, there are a variety of titles. Briefly, by commencing on the Waikiki side of the harbor, by the United States naval reservation, the next large interest, I think, is owned by the Bishop estate; then come the wharves of the naval station, right where we are here; and following along come the wharves of the Territorial government; then continue around, with one or two exceptions of small wharves, to the wharves owned by the Oahu Railway and Land Company; they are, in turn, joined by the reef on the upper side of the harbor. It is a matter which has been in controversy between the railway company and the Territorial government for a number of years, which, I believe, now has been satisfactorily arranged.

Senator MITCHELL. Does that include the quarantine island?

Mr. COOPER. I do not know that the final papers have been exchanged, but there has been an agreement.

Senator MITCHELL. There was a controversy between the government and private parties—the railway company?

Mr. COOPER. Yes, sir; this I think has been arranged by an agree-

ment, or exchange of lands, which has been approved by the Department; the Attorney-General at Washington, and the different departments having anything to do with the question, but I believe the final papers have not been passed at present. I understand they are in the course of adjustment.

Senator FOSTER. Practically agreed upon?

Mr. COOPER. Yes, sir.

Senator MITCHELL. That would make good title to the government of Quarantine Island, would it?

Mr. COOPER. Yes, sir.

Senator MITCHELL. What do you know about the proposition to open the channel between Quarantine Island and mainland?

Mr. COOPER. That has been discussed on several occasions.

Senator MITCHELL. What do you say about the practicability and advisability of it?

Mr. COOPER. It seems to me it would be wise. The main difficulty encountered as the result of soundings that were taken there—there were soundings taken years ago on these lines—I believe that nothing insurmountable has been found; there may be some hard dredging, the coral reef will probably have to be dredged out; the proposition being to extend into Kalihi Harbor.

Senator MITCHELL. Is there plenty of water there connecting with the ocean?

Mr. COOPER. That could be dredged to sufficient depth, owing to the principal deposit being soft mud.

Senator MITCHELL. Suppose that, under this arrangement you speak of in regard to settlement of titles, it would leave the ownership of the land on the route of that proposed channel, as you give it to the sea, in the railway company, would it?

Mr. COOPER. The property on the right of the channel, going from Honolulu Harbor into Kalihi Harbor, would be in the railway company; on the left of the channel it would be the quarantine establishment of the Government.

Senator MITCHELL. Anything else you wish to say?

Mr. COOPER. I wish to call attention to the expense incurred by the Territorial government for the maintenance of buoys, which also seems to me would be a proper charge for the Federal Government. Repair and changing buoys for the period ending June 30, 1902, \$1,855.63; average per month, \$154.89. Many of these piles should be renewed; there are also repairs to the buoys in Hilo which are needed, the estimate of the cost being several hundred dollars; the exact items I can not furnish at present.

Senator MITCHELL. Well, anything else?

Mr. COOPER. Yes, sir; the improvement of Hilo Harbor is an important item. Hilo Harbor and breakwater, \$500,000; the harbor at Hilo at present is practically an open roadstead and needs protection by the construction of a breakwater from the ocean along Blonde reef to Cocoanut Island.

Senator MITCHELL. By what authority was this survey and estimate made?

Mr. COOPER. On estimates previously prepared by the Republic of Hawaii.

Senator MITCHELL. There has been no estimate or survey made by the Territorial government?

Mr. COOPER. No, sir; we have the surveys and estimates. Our total estimate by the Government of the Republic of Hawaii is \$500,000

for the improvement of Hilo Harbor, which includes a certain breakwater and certain dredging.

Senator BURTON. What is the estimated cost of the breakwater at Hilo?

Mr. COOPER. Five hundred thousand dollars.

Senator BURTON. Is it not true that vessels of all kinds can land there almost any day in the year without the benefit of a breakwater?

Mr. COOPER. They are liable to be caught in a northeast or, more particularly, north wind, in which case they would be—it is necessary to either cut loose and go to sea or be in great danger of being thrown upon the reef. It is absolutely unprotected.

Senator BURTON. Are you sure about that?

Mr. COOPER. Yes, sir.

Senator BURTON. Don't you know that the report of the naval officers is different in regard to that matter?

Mr. COOPER. It may be, but my experience certainly is to that effect; I happened to be on board the steamer *Kinau* in Hilo Harbor; it was in the month of February, 1900; there were seven merchant ships in the harbor, two or three small steamers, and the United States survey ship *Pathfinder*, and almost without warning a northerly gale came on, and it was only with the greatest difficulty that the sailing vessels were gotten into position where they were safe from the gale; all the steamers kept up their steam, and in several instances were compelled to keep their machinery moving in order to prevent carrying away their cables; one ship that was lying at the wharf was taken in tow by two steamers and towed over to a place less exposed to the gale than where it was lying at the wharf; all ships put out additional anchors, and the danger was not considered over until the gale abated. That is one experience I happened to go through myself.

Senator MITCHELL. What is the depth of water in Hilo Harbor?

Mr. COOPER. That varies greatly; it is not over some 40 feet, up to 17 and 18 feet.

Senator MITCHELL. There is a bar, is there?

Mr. COOPER. There is a slight bar, yes; not much difficulty with the bar question as with protecting it with a seawall, coming in from the open sea. I think there is no necessity for dredging of the bar at Hilo.

Senator MITCHELL. Plenty of water there?

Mr. COOPER. Yes, sir.

Senator MITCHELL. What next, Mr. Secretary?

Mr. COOPER. The next item of my estimates was for the purchase of a lot for a Federal building in Honolulu; estimated cost, \$150,000. That estimate refers to a particular lot which—

Senator MITCHELL. Let me ask you right there, Mr. Secretary: Does the Government own land here upon which a public building could be erected?

Mr. COOPER. No, sir; I refer to map marked "Exhibit C," which shows the lots suggested at the junction of Merchant street, King street, and Alaieka street. The capitol building and the judicial building occupy lots just adjacent to it.

HONOLULU HARBOR.

Senator BURTON. Who is the custodian of the contract of compromise entered into between the railway company and the Government respecting the quarantine island?

Mr. COOPER. On behalf of the Government?

Senator BURTON. Yes.

Mr. COOPER. I understand it is Mr. J. W. Brickous, United States district attorney. Governor Dole says that he has the contract.

Senator BURTON. Will you let us have a copy of the contract?

Mr. COOPER. Yes, sir.

Senator MITCHELL. What is the depth of water in Honolulu Harbor?

Mr. COOPER. I can furnish you with a contour map showing you the whole thing better than I can give it from a statement. The average depth is 30 feet; that is what we desire to maintain, but of course it does not reach that now.

Senator MITCHELL. Then there is a bar, is there not, through which a channel ought to be cut in order to get into the harbor?

Mr. COOPER. Yes.

Senator MITCHELL. What is the length and width of that channel: do you know?

Mr. COOPER. I could not give it to you offhand.

Senator MITCHELL. About?

Mr. COOPER. I think it was dredged to the width of 400 feet.

Senator MITCHELL. And about how long?

Mr. COOPER. I will give you that as soon as I can look it up.

Senator MITCHELL. That cut is through a coral reef?

Mr. COOPER. No; it is mostly through a heavy deposit of coral sand.

Senator MITCHELL. It is not a character that can be dredged, is it?

Mr. COOPER. Yes, sir; it was dredged. It required a cutter on the bottom to loosen up the mud; it was not of the severe material found in dredging the naval slip, so called; that required blasting to remove it.

Senator MITCHELL. Does it fill up?

Mr. COOPER. Only very slightly; the bar has not been dredged since the first time; in 1892, I think it was.

Senator BURTON. I will ask you if you have at your command the contract of compromise that was entered into by the railway company and Government respecting this so-called quarantine island or Sumner Bar?

Mr. COOPER. No; I have not.

Senator BURTON. Could you get it?

Mr. COOPER. I have no means of getting it; no.

Senator FOSTER. There is no record of it?

Mr. COOPER. I have never seen the contract.

Senator BURTON. What would it cost to dredge out that channel from the channel, 600 feet wide, as proposed, down to Kalihu Harbor?

Mr. COOPER. I have no estimate of it.

Senator BURTON. You have made no estimates on that, and none have been made that you know of?

Mr. COOPER. Not that I am aware of.

Senator BURTON. Nor the cost of dredging out Kalihu Harbor to deep water?

Mr. COOPER. No, sir.

Senator FOSTER. Will they encounter any coral in that dredging?

Mr. COOPER. Some, yes; all these matters we can give you an absolute detail of at a subsequent time if you desire.

Senator BURTON. You do not know by the terms of the compromise or proposed compromise whether this dredging was to be done or this

channel was to be dug by the railway company or left open to be finally saddled on the Government?

Mr. COOPER. No; I do not know the terms of that question.

PUBLIC BUILDINGS.

Senator MITCHELL. Proceed, Mr. Secretary.

Mr. COOPER. The custom-house and post-office at Hilo—estimated cost of post-office at Hilo, \$16,000. Detailed plans and specifications of this building were forwarded with these estimates in October, 1901.

Senator FOSTER. What are the officers to occupy this building?

Mr. COOPER. Why, the present post-office is an old wooden building there, not fit for occupation.

Senator FOSTER. The Department always have a way of figuring up these things itself; they know what business is done here, and they figure from that on the number of officers, and then on the building, perhaps add enough for some future growth.

Mr. COOPER. These figures were all obtained and calculated upon the basis suggested by the Supervising Architect of the Treasury Department.

Senator FOSTER. They were?

Mr. COOPER. Yes, sir.

Senator MITCHELL. Is this building intended for both post-office and court building?

Mr. COOPER. No; simply for a post-office alone at Hilo; also estimate for custom-house at Hilo.

Senator FOSTER. They will put up but one building, I suppose, to be occupied by all the Government officers at Hilo.

Mr. COOPER. It was suggested in this case that probably would not be done, owing to the formation of the harbor lines and the location of the principal town of Hilo.

Senator BURTON. What won't be done?

Mr. COOPER. Combining of post-office and custom-house in one building. It was suggested it would be more convenient to the best public service that the custom-house should be constructed on the Waiakea side of the bay, while the post-office would probably be erected on the other side of the town; distance some 2 miles.

Senator MITCHELL. Does or does not the Government own lands upon which these buildings could be built at Hilo?

Mr. COOPER. There is a lot upon which the post-office could be built, and lots also, I believe, on which the custom-house could be built. Both of these are provided for.

Senator BURTON. The post-office and court-house could be combined.

Mr. COOPER. I suppose there would be no Federal court-house at Hilo.

Senator MITCHELL. What else, Mr. Secretary?

Mr. COOPER. The question of the conversion of the Hawaiian coins. I will address a letter to you on that subject.

LABOR QUESTION.

Senator MITCHELL. What have you to say about the labor question?

Mr. COOPER. It seems to me that the labor question is one of the most important that confronts us to-day. Much has been said against our suggestion, or at least against my suggestion, that we should be

supplied with ample unskilled labor for the successful conduct of our large estates. During the years that the Republic of Hawaii was in existence a careful system of the introduction of unskilled labor was carried on, by which the interests of skilled labor was fully protected. The two sources of our labor supply during these years were from China and Japan. Limited numbers of Chinese were allowed to enter the Republic to engage in agricultural labor in the fields only. Upon their ceasing to become agricultural laborers they were returned to their native country. In order to facilitate this the employers were required to deposit with the treasury department, or more particularly the postal savings bank, which was a branch of the treasury department, sufficient funds to pay for the passage of the immigrant back to China. In this way the planters were enabled to have sufficient unskilled labor to successfully cultivate their crop. Immigration from Japan was also had, so that the two great nationalities were about equally represented, so far as numbers were concerned. This was found to be a desirable condition of affairs, so that the labor supply should not be in the hands of any one nationality. Under that system the country experienced a rapid development and we reached the summit, or at least the summit so far, of our agricultural prosperity, thus enabling us to trade very extensively with the mainland.

I look upon it as a matter now perhaps standing upon theoretically the lines of reciprocity. During our prosperous years of 1900 and 1901 we purchased from the mainland over \$20,000,000 of goods, machinery, tools, iron, steel, building materials, food stuffs, and most all of our wearing apparel. We were enabled to do this on account of the prosperity of our great industry here. Since the going into effect of the Federal immigration laws we have been deprived of one of the principal sources of our labor supply, which has had the result of stopping the onward march of development, on account of the limited amount of labor. Also it has had the effect of increasing the wages of the unskilled labor that remain here, so that the profits of the plantations have been greatly reduced, many of the plantations within the past year having paid no dividends at all, and all of them have been greatly reduced in their dividend paying, which has brought great hardship to the shareholders, and has also prevented and reduced to a great extent our volume of trade with the mainland. It has been, I presume, reduced 50 or 60 per cent during this year. It simply means this, that when our industry is flourishing and is properly being conducted that we have funds wherewith to trade with the mainland—cut that off and we are left not only without our luxuries, but we are left without the necessities of trade.

Senator MITCHELL. Has there been any reduction in the men—the number of your unskilled labor—between the present time and the time you state your country was prosperous?

Mr. COOPER. Yes; a great reduction on the part of the Chinese, who have been continuously going out since June, 1900, and none arriving; we have lost nearly 8,000 of our Chinese laborers during that period, and not one has come in to take their place.

Senator FOSTER. Has not the Japanese increased?

Mr. COOPER. No; they have just about held their own, is my impression.

Senator MITCHELL. How does the price of labor compare as between the two periods; the time when your planters were prosperous as you state and the present time?

Mr. COOPER. I think nearly 40 per cent higher; we are now paying 30 per cent higher for labor than is paid in Louisiana for the same quality of labor; we have, you understand, no native forces to draw from; the Hawaiians, while they make excellent skilled laborers in the way of carpenters, overseers, machinists, etc., they do not engage in laborious field labor.

Senator MITCHELL. There were about 4,000 Porto Ricans brought in here, were there not?

Mr. COOPER. I think not quite so many; Mr. Haywood prompts me in saying 2,250.

Senator MITCHELL. How do they size up as unskilled laborers?

Mr. COOPER. I think at first they were rather a disappointment; I think later on they have been doing better; but it has had this effect upon other nationalities of showing the possibilities of the introduction of other laborers; I think it had a good effect in that way.

Senator MITCHELL. Has there been any increase in the Portuguese laborers?

Mr. COOPER. No. Taking up the thread of the thought of our industrial prosperity and our trading ability with the mainland by this increased price in labor we may safely say that a large per cent of the money which is so paid to laborers, instead of going to the mainland in trade, is going to China and Japan where it should not go. I would say the Chinese and Japanese were amply satisfied with the wages paid to them in former years, it being many times greater than they could obtain in their own country; they simply made use of our necessities in the early years of the country.

Senator MITCHELL. If the price of labor has increased 40 per cent in the last year or two, how do you account for so many Chinese going back?

Mr. COOPER. They simply remain here a certain length of time to gather together a limited amount, which will be sufficient to maintain them in their native country; when this is obtained they return to their home; they have no ambitions other than that.

Senator BURTON. And the increased price of labor enables them to do it that much quicker?

Mr. COOPER. Yes.

Senator MITCHELL. What do you recommend?

Mr. COOPER. I have recommended in my report here as secretary, the introduction of a limited amount of Chinese labor for agricultural purposes only, practically carrying out the same system that was inaugurated by the republic, remaining here for a definite time and then to return to their own country.

Senator BURTON. You say by the republic; you mean by the monarchy?

Mr. COOPER. That system was introduced by the republic.

Senator BURTON. You give the dates as 1890 and 1891 when the country was so prosperous?

Mr. COOPER. No; 1900 and 1901.

Governor DOLE. There is one feature of this question I would like to have Mr. Cooper speak of; that is bearing on the rice industry of the country.

Senator MITCHELL. All right, we will hear Mr. Cooper on this.

Mr. COOPER. The cultivation of rice is entirely in the hands of Chinese laborers, and in many instances there are plantations that have been under great difficulties to secure the requisite number of

laborers for that purpose, and they have been compelled to pay advanced prices for their labor, so that now nearly all of our rice plantations, as I understand, are not producing rice at a profit, at least a very small profit. The competition between Hawaiian grown rice and Japanese rice has within the last few months been so keen that it has brought the Hawaiian staple down to a nonproductive basis.

Senator MITCHELL. What is the price of unskilled labor here now?

Mr. COOPER. I do not know that I can give it exactly, Mr. Chairman. It varies according to the particular work done. My impression is that it is from \$16, \$17, \$18, and \$20 per month; very little is as low as \$16. I think the great bulk is between \$18 and \$20. That also includes free house rent, fuel, water, and medical attendance, and, in addition, a practical exemption from taxation, as the taxes are paid by the planters.

Senator BURTON. You speak of Japanese rice. You mean rice grown here by Japanese?

Mr. COOPER. No; rice raised in Japan. One point, if you will allow me, Mr. Chairman, before we miss it. There have been a great number of skilled laborers leave the Territory within the last year or two. Some have charged it to the interference of Oriental labor with the skilled labor. I do not agree with that proposition. During the years under the administration of the Republic, when there was an ample supply of unskilled labor admitted to the country, there was a continuous immigration of skilled labor to this country, and they all found employment at good wages. The going away, it seems to me, of skilled labor from this Territory is owing to our depression in our industrial progress. There are no new industries being started, no new mills being constructed, no extensions of plantations, consequently no demand for the further use of skilled labor. Take, for instance, right here within a stone's throw of where we are sitting. The Honolulu Iron Works, during our prosperous times, employed as high as 600 or 700 laborers, all skilled men; no Japanese, no Chinese, but American and Hawaiian laborers. I do not believe there is over 200 men working on that establishment to-day. That is not because they have been interfered with by cheap labor, but simply because our industrial progress has stopped.

Senator FOSTER. No demand for labor?

Mr. COOPER. Yes, that is it.

Senator MITCHELL. Are these sugar industries and the rice industries of the country carried on mainly by corporations?

Mr. COOPER. I think all of the sugar business is carried on by corporations; the rice is carried on by individuals; that is, Americans, Portugese; also some Chinese firms engage some in the business.

Senator MITCHELL. You spoke a moment ago that owing to the depression here the sugar planters had been unable to pay dividends; how does the money actually invested compare with the amount of stock, if you know, generally?

Mr. COOPER. I think in some instances there have been stock dividends of plantations in this way; that the material, wealth, and value of the plantation has been increased by new improvements, the putting up of extensive mills and the addition of real estate, and they are from their surplus earnings, and in cases of that kind I think they have been increased in stock equal to the increased value of the property. I do not think I know of any instance where there has been watering of stock, or stock issued with nothing behind it.

Senator FOSTER. That is the way they meet the dividend?

Mr. COOPER. That is, they paid a certain amount to the stockholders, and a certain other per cent of the earnings have been placed in permanent improvements.

Senator MITCHELL. When you state, then, Mr. Secretary, there has been a failure to pay dividends, you mean us to understand there has been a failure for the last year or two to pay a reasonable return on the capital actually invested?

Mr. COOPER. That is it exactly. I do not think you can find an instance where the actual capital stock issued, perhaps with one exception, is not fully backed up by the actual investment, either by the original subscription or by the erection of permanent improvements taken from the earning power of the plantations.

Senator BURTON. You have spoken about the Chinese laborer and how the Chinese want to acquire a competency and get away from the country and the kind of work that they do here; you have spoken about the Japanese taking advantage of your necessities and increasing the price of unskilled labor, especially on the plantations and their methods of operation, especially in the field of unskilled labor; you have also spoken about the Hawaiian and the kind of labor they perform—that they will not go into the field, but do other kind of labor; but you have omitted entirely to say anything about the white man. Does he do anything in this?

Mr. COOPER. No; not in the unskilled capacity, only as skilled laborers.

Senator BURTON. The larger part of them do not labor at all, do they?

Mr. COOPER. I think they work pretty hard.

Senator BURTON. You regard the labor problem, Mr. Secretary, as the most serious one affecting the prosperity of the islands?

Mr. COOPER. I do; yes, sir.

Senator BURTON. And if you could have the same conditions that you had under the republic, you could meet with your products any kind of competition almost, could you not?

Mr. COOPER. We could come in an equal basis, I think, with the other States.

Senator BURTON. You would not be afraid, then, of the competition of Cuban sugar, even with reductions of the tariff, if you could have your labor here as you had it before?

Mr. COOPER. We certainly would be in a better condition to hold our own as against Cuban reciprocity.

Senator BURTON. But with the door closed to cheap labor in these islands, and the door open to cheap labor in Cuba and to reciprocity, you would meet a very dangerous condition of things, would you not, for the prosperity of the islands?

Mr. COOPER. It appears to me that way; with both reciprocity and cheap labor admitted to Cuba and our doors closed to cheap labor.

Senator BURTON. They would amount almost to a prohibition of your products?

Mr. COOPER. I think so; I think it would.

Senator BURTON (to Governor Dole, who was present). Do you agree with and concur in the statements made by the Secretary, respecting these matters, as he has just given it?

Governor DOLE. Yes, substantially.

Senator MITCHELL. We will be glad, Mr. Secretary, if you will also address us a letter giving us any more specific information that you have.

LEPER QUESTION.

Senator MITCHELL. Well, the next subject is the leper question. What have you to say about that?

Mr. COOPER. I believe that that should be a matter entirely within our own control and that the expense should be borne entirely by our own people. That is a misfortune which we have always successfully coped with and we have a feeling of deep sentiment in regard to it, and I do not think that we could ask for Federal support for the maintenance of the lepers. I believe that we are capable of taking care of them ourselves. I believe we all have a lively interest in having our unfortunates cared for under our own supervision, and in no way should we ask for Federal aid, especially as that might possibly lead to the coming of lepers from the mainland, which would be a stigma which I think we should not be branded with.

Senator MITCHELL. About how many lepers are there now on this island?

Mr. COOPER. It is all in the report—about 1,009.

Senator MITCHELL. What is the annual cost of taking care of the lepers?

Mr. COOPER. In the care of the settlement the expenditure of money for the period ending December 31, 1899, the amounts were as follows: Segregation, support, and treatment of lepers, \$170,151.49; ———, \$35,856.25; for the year 1900, segregation, support, and treatment, \$81,359.73; ———, \$17,837.90.

Senator MITCHELL. What other subjects have you, Mr. Secretary, that you would like to take up?

Mr. COOPER. Only those that I can submit in writing.

Senator MITCHELL. Very well; kindly submit those in writing and state what you wish and we will see that it all goes in.

SAMUEL M. DAMON, being first duly sworn by the chairman, testified as follows:

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. DAMON. Samuel M. Damon; age, 58; residence, Honolulu; occupation, member of the firm of Bishop & Co., bankers.

Senator MITCHELL. Are you a native of the Hawaiian Islands?

Mr. DAMON. I am.

Senator MITCHELL. Resided here all your life?

Mr. DAMON. Except the years I have been traveling, but this has been my home.

Senator MITCHELL. What official position have you held, if any, under the late republic of Hawaii?

Mr. DAMON. I have been connected with the government in different capacities from 1889 to 1900, the time of annexation.

Senator MITCHELL. What position did you hold under the monarchy?

Mr. DAMON. I was minister of finance under the monarchy, King Kalakaua; then later I was under the Queen, a member of the privy council; then under the provisional government I was at one time vice-president, I think it was, and then minister of finance, and I continued on as minister of finance from the earlier period of the provisional government right up to annexation.

Senator MITCHELL. Is the bank with which you are connected a private institution?

Mr. DAMON. A private institution, established in 1858.

Senator MITCHELL. You are familiar with the condition of the currency in the islands?

Mr. DAMON. Yes, sir.

Senator MITCHELL. I hold in my hand now a letter addressed to the committee by Bishop & Co., in which our attention was attracted by your local silver currency. Proceed in such way—in your own way—with such statements as you desire to make in regard to the silver currency of these islands, and make such suggestions as to the remedy, if one is desired, in regard to the matter.

Mr. DAMON. In the year 1886 Mr. Spreckels, in connection with Mr. Gibson, who was the leading spirit under His Majesty Kalakaua's government, introduced into the country \$1,000,000 in silver currency, for which he received gold bonds of this country bearing 6 per cent, in payment; this currency was divided into dollars, halves, quarters, and 10-cent pieces, of the same intrinsic value as United States currency, impressed with the Hawaiian coat of arms, and the King's face or profile on the other side, and was legal tender to the amount of \$10 in any one payment. The amount, for the size of the population and the business here, was too large, and was a burden from its inception; owing to our relations to the United States, our payments were made in San Francisco for all foreign exchanges, and if our accounts were overdrawn in San Francisco or we had debts to pay, we could not remit this currency in payment of it, and that fact still remains to-day.

Under the monarchy the minister of finance accommodated the public by holding back as much as possible of this coin in reserve; that is, from a year after, perhaps two years after, the provisional government was formed, the treasury began to have a surplus or reserve and the minister of finance was able to withdraw, when it became burdensome, a certain amount from circulation and hold it in the government vault. Even with this assistance, and with the assistance of the planters—the agents here who used this coin in payment of labor on the plantations—and it was circulated here as our circulating medium—it was a constant cloud over the business; the United States gold was the real standard to be accepted of any amount over \$10. The United States gold was the standard long before annexation and we imported gold here. Gold was kept here and in large payments it was used, but in times of scarcity it of course naturally went away to pay debts, and it does so to-day. Under the American rule, or since annexation, this difficulty has increased, for our relations with the mainland are now so much closer, and at times between crops, when exchange drafts, or drafts against sugar, are difficult to obtain, there are no shipments being made. In the natural order of events the coin would be shipped to make good our accounts there, but with our silver currency we can not ship it; it is right here.

Senator MITCHELL. You are compelled to take this money in payment of debts coming to you here, but you can not utilize it in payments of your debts away from here on the mainland?

Mr. DAMON. Yes, sir. Now, with reference to the bank business. Our customers will bring in this money and deposit it in the course of their regular daily deposits from day to day. The same customers give their checks to the men or the country banks—tender him silver. He says: "No; I don't want silver; I want gold." That naturally forms a growing surplus of silver in our bank reserve, and in the First National Bank here it acts in this way, that when the examiner comes around he refuses to recognize that Hawaiian silver coin as cash. He says: "It is all very well, but it is not United States coin, and I refuse

to recognize it;" so the First National Bank I know at one time had in their balance \$40,000 of Hawaiian silver, and it had to be deducted from their cash balance because the inspector would not recognize it. It was pretty hard on the bank. Now, in our own bank we have had at times as high as \$250,000 of this Hawaiian silver currency that had accumulated on us that we could not work off, and we have—to get rid of it—we have for some time back said to the agents of the plantations: "If you in your monthly payments will relieve us of this, we will allow you a fraction of a per cent for your trouble;" and we have allowed them one-half of 1 per cent to take this coin away from us and allow us to get rid of it.

Senator MITCHELL. But it comes right back to you?

Mr. DAMON. Yes; it comes right back to us. The post-office here on these islands does a very large postal-order business, much larger, I imagine, than is done for any town or territory of the same size. When a Chinese, Japanese, or white man on the other islands wants to make remittances of two or one hundred dollars to Honolulu, not having banks scattered through all these islands, he goes to any country post-office that has a postal-order system, deposits his money, and receives an order on the post-office here in Honolulu. A great many of these orders come to the banks and our own, for instance, takes its accumulation of orders in its mail. Sometimes it amounts to quite a good many thousand dollars. We go to the post-office with the United States postal orders and ask for our money and they tender us Hawaiian silver. We say: "Why, this money order calls for American coin." He says: "Well, you know, Mr. Damon, we can not pay you in gold; we will pay you all we can and the rest we have got to pay in silver."

Senator MITCHELL. Does the Government of the United States accept Hawaiian money, silver, for a postal order payable in San Francisco?

Mr. DAMON. I have no reason to know to the contrary, but I know they do it right direct here in Honolulu. I do not know whether they could do it, however, in other post-offices.

Senator FOSTER. Up to \$10 or more?

Mr. DAMON. If you want \$100, I think you have to take it in two \$50 orders. Now, about the agreement with the postmaster here. When we present these orders we take all the way from 25 to 50 per cent of Hawaiian silver from him and the balance in American gold. It accommodates him and keeps this coin going. If we should refuse to receive it from him, he might in turn refuse to receive it from the people on the other islands and bring about a depreciation of it, a repudiation, in other words, which would not be helpful to us in any way.

Senator MITCHELL. What amount of silver currency is now in circulation in the islands?

Mr. DAMON. I think there must be between \$850,000 and \$900,000. I calculate there must be \$100,000 that has disappeared. The dimes have all gone, and at least one-tenth of it has disappeared.

Senator MITCHELL. Well, what do you recommend?

Mr. DAMON. Have you secured enough information from me as to its working here? Are you satisfied on that point? Now, take one more example. Take the Hawaiian treasury as another example. There is paid into it a considerable amount of money for licenses and taxes and court fees, and they have to receive it. They can not refuse it, because it is a Hawaiian statute up to a certain amount. These small amounts in the aggregate form quite a considerable amount. If there came about any repudiation of it, it would be a very serious matter for the Territorial treasury to face, as it is the govern-

ment—Hawaiian—currency which, by resolutions of the executive council in times past and the statutes compelling them to take it up to a certain amount, would produce a reaction here that would be very serious to the conduct of the government in helping to meet their obligations. A final point I might suggest in the matter is this: That, as we are an American Territory—that question is settled forever and ever; there is no arguing on that point—the Hawaiian currency keeps out the American currency. The American currency will never stay here in bulk or any amount as a subsidiary currency as long as the Hawaiian currency is in existence here. We are forced to keep this thing going. We are in that position we can not get rid of our own currency, and we have to keep it. Indeed, there is no way to get rid of it. The reason that American gold stays here is that it is a legal tender over \$10, and in large payments it is our standard, the standard of—

Senator MITCHELL (interrupting). Can you give approximately about the total amount of currency in circulation in these islands of all kinds outside of the Hawaiian?

Mr. DAMON. I should say there was between three and four million here. We have that much, certainly.

Senator FOSTER. That is, United States currency?

Mr. DAMON. United States currency, gold.

Senator MITCHELL. Well, anything else, Mr. Damon, that occurs to you, bearing upon the question, before suggesting a remedy?

Mr. DAMON. I think I have given you facts enough on the needs of it.

Senator MITCHELL. Please state, then, what you suggest as a remedy in the way of legislation.

Mr. DAMON. If Congress would pass the act that has already been partially passed on more than one occasion, I think it would be all the legislation we would require. The act has been before the committee, passed by the committee, and passed by the Senate, and it is only on account of our needs here, as we feel it quite absolutely necessary, that we trespass on you to bring this thing up again.

Senator MITCHELL. You simply recommend the passage of the bill that was passed last session by the Senate?

Mr. DAMON. Yes, sir.

Mr. L. E. PINKHAM, being first duly sworn by the chairman of the committee, testified as follows:

Senator MITCHELL. State your name, age, place of residence, and occupation.

Mr. PINKHAM. L. E. Pinkham; age, 51; residence, Honolulu; occupation, manager and treasurer of the Pacific Hardware Company.

Senator MITCHELL. How long have you resided in Honolulu?

Mr. PINKHAM. Since 1892, with the exception of four years.

Senator MITCHELL. Your name is—

Mr. PINKHAM. L. E. Pinkham.

Senator MITCHELL. Mr. Pinkham, state what organization, if any, you now represent before this committee.

Mr. PINKHAM. The Builders and Traders' Exchange.

Senator MITCHELL. This association has presented the committee with a memorial, which treats of various and sundry subjects. I will be glad to have you take up these different subjects as specified in the memorial in their order and make such statements to the committee as you may deem pertinent and important.

Mr. PINKHAM. The first subject treated on is that of "isolation." I think that the memorial itself covers the ground. The second subject, "exposure," I would elaborate to some extent. An illustration of our exposure to violent epidemic diseases is illustrated in the appearance in these islands of bubonic plague during the years 1899 and 1900. At that time public apprehension was so great as to occasion the expenditure of a vast sum of money in proportion to the resources of the Territory. The cash expenditure, as stated, is \$807,000 about, and the resulting liability yet unsettled upward of \$1,500,000. The communication between the Orient and the Pacific coast, with Honolulu as practically a way station, brings constant exposure to such epidemic diseases as obtain in the thickly populated countries of the Orient, and our only means of escape is through the United States quarantine, which the report of the Treasury Department shows, cost up to April 1, 1902, \$55,809.29, which, of course, was expended from the Federal Hawaiian funds. It was the sense of the Traders' Association that the local board of health, constituted as the existing board, has the authority itself to protect the health of the community and the general interests affected thereby. The board of health is obliged to be constantly alert in guarding against these diseases, and hence the expenditure is constant and practically unceasing.

Senator MITCHELL. State how your board of health here is constituted.

Mr. PINKHAM. The board of health is appointed by the governor, and the board itself serves without compensation; only its executive officers receive any pay.

Senator MITCHELL. Is it composed of more than one person. If so, how many?

Mr. PINKHAM. Yes; I think it has six, and that the executive officer makes seven.

Senator MITCHELL. Do they all serve without compensation?

Mr. PINKHAM. All except the executive officer.

Senator MITCHELL. What is his compensation?

Mr. PINKHAM. That I could not give you any information on.

Senator FOSTER. He is the office man, I suppose; open the year round.

Mr. PINKHAM. Yes, sir.

Senator MITCHELL. He is a physician, of course?

Mr. PINKHAM. Yes.

EXPENSE OF LEPER MAINTENANCE.

Senator MITCHELL. Please make any statement you desire in regard to the maintenance of the leper class.

Mr. PINKHAM. The paragraph gives the concise statement of the financial conditions and makes a comparison indicating the burden upon the people of the islands.

Senator MITCHELL. Please state in this connection what is the opinion of your association in reference to this charge, whether it should be met by the local government or by the Federal Government?

Mr. PINKHAM. We believe that Federal aid should be given, directly or indirectly, and that the lepers should remain under the local control of our board of health. The lepers have always been kindly treated and the confidence thus implanted should not be disturbed, and particularly as Hawaiians are almost the exclusive suf-

ferers from this disease. Their confidence, we believe, could be maintained.

Senator MITCHELL. How does the number of lepers that is now on the islands compare with the number of lepers on the islands when the republic was established?

Mr. PINKHAM. There has been something of a decrease, the exact number I can not tell you. I am under the impression the maximum number of lepers and their children was 1,200. It is now 1,009. The community would deprecate any tendency or movement to make the island of Molokai a national lazaretto.

LABOR SITUATION.

Senator MITCHELL. The next subject referred to in the memorial is entitled "Labor situation." If you wish to make any elaborations in the statements contained in the memorial you can do so.

Mr. PINKHAM. The Builders and Traders' Association do not consider it within their province to make any recommendations or take up the subject of the labor problem as concerning our main and almost exclusive industry—the raising of sugar—leaving that to those whose interests more directly are connected with it. We make the representation relative to the labor situation from the recent experiences in the building trades, which shows a tendency to employ alien labor or Asiatic labor in preference to white labor, which is made possible by the lower scale of living. And in view of the extensive improvements contemplated by the United States Government, we ask, if possible, a determination of the labor question in advance, so far as the operations of the United States Government are concerned in their proposed improvements.

POLITICS AS RELATED TO BUSINESS.

Senator MITCHELL. The next subject cited in the memorial is entitled, "Politics as related to business." You may proceed with any statement you may wish to make under that head.

Mr. PINKHAM. In the paragraph referring to peculiar political, and especially requisite economical conditions, we refer, first, to the system of contract labor in this country. Second, to the denization privileges; and, third, the limitation of the franchises. We believe that under these three heads the experience of the country for many years led to a certain bias and a desire to perpetuate some of these conditions, and that in the earlier periods of annexation many of our best citizens were unable to overcome entirely the bias that these political operations gave them. We believe, however, that to these men of wealth and intelligence the Hawaiian Islands must look for their prosperity and political success. Under the paragraph which refers to discrimination in suffrage we believe that since the Congress of the United States has determined and fixed the elective franchise on the basis of educated manhood suffrage, it has been impolitic to question the franchise rights of the native Hawaiians, either directly or by innuendo, either in the press, on the stump, political gatherings, or in the legislature; as such a course can only, and has only, produced great irritation, which has been to the disadvantage of the body politic of the Territory of Hawaii, and that such lines are particularly impertinent, in that the power to change the status lies solely in Congress. We believe the better course is to advocate, suggest, and edu-

cate the entire electoral body in the best measures for the general public good. We go further, and say that the coming election this fall will undoubtedly disclose the political situation, and we submit that if the result is such that the issue of good government is forced by events, that the United States Congress has the power to interpose and enlarge the veto power as between the legislature and the executive, and we would suggest that the veto power be so enlarged that it require at least a three-fourths vote to pass a measure over the executive veto.

Senator MITCHELL. What is the existing law in regard to the veto power?

Mr. PINKHAM. A two-thirds vote is required to pass over the executive veto.

Senator MITCHELL. And you propose a larger vote in order to pass a bill over the veto?

Mr. PINKHAM: Yes, sir.

Senator BURTON. What do you mean by saying there that if the election goes a certain way that it should enlarge the veto power of the government?

Mr. PINKHAM. I do not refer—I mean by that after the legislature is in session and the political conditions existing between the legislature and the executive disclose an almost impossibility to pass measures for the benefit of the Territory, if unsafe extravagance should prevail, that a veto power should be so interposed as to give greater safeguards to the business interests of the community.

Senator BURTON. Why do you say these things?

Mr. PINKHAM. Well, the last legislature here was generally considered to have been nonproductive of good results for the community. I do not lay the charge to the legislature entirely.

Senator BURTON. Was the legislature extravagant?

Mr. PINKHAM. The legislature was not, I can say, extravagant.

Senator BURTON. As a matter of fact, did not the last legislature, in its appropriations, come under the estimates recommended by the governor in almost every instance?

Mr. PINKHAM. Yes; that may be true.

Senator BURTON. Now, then, why do you say or apprehend any extravagance on the part of the legislature that did not make appropriations as great as that recommended by the governor?

Mr. PINKHAM. We believe that our electorate here has hardly the stability that we would look for in the States.

Senator BURTON. You are not answering my question. Here is a legislature that did not in its appropriations come up to the amounts as recommended by the governor, and now you seem to be apprehensive that the next legislature is going to be very extravagant and should be curtailed in its power by the governor. Please tell the Commission on what you base such a fear.

Mr. PINKHAM. We base our fears upon the possibilities that many of the substantial interests here fear.

Senator BURTON. Then you are simply telling us something that somebody has told you to tell?

Mr. PINKHAM. No, sir; nobody has told me to tell anything.

Senator BURTON. You have not yet given the Commission the basis of your fears, but, on the contrary, you have stated that the appropriations by the last legislature were not in amount up to that recommended by the governor. Is your only answer that some substantial interests here fear extravagance on the part of the legislature?

Mr. PINKHAM. That is my answer.

Senator BURTON. Now, is there any fear here of extravagance on the part of the governor?

Mr. PINKHAM. I do not know that there is.

Senator BURTON. Well, when the governor recommends larger appropriations than the legislature enacts and the legislature curtails expenditures, how can you say that anybody can have any fear of the legislature and then have no fear from the governor?

Mr. PINKHAM. Certainly, the legislature determines the amount that shall be expended.

Senator BURTON. Yes, but the governor is asking them to give more than they would grant, and yet you ask that the governor shall have the veto power enlarged in order to prevent extravagance. Can you explain this apparent contradiction?

Mr. PINKHAM. We can only explain that on the basis of the apprehensions that exist.

Senator BURTON. Well, what are the bases of the apprehensions that exist?

Mr. PINKHAM. Well, it is largely upon a belief of the inexperience in public affairs that may obtain among the members of the legislature.

Senator MITCHELL. From what you say, is not your apprehension as to the future based upon a lack of belief in the success of a republican form of government?

Mr. PINKHAM. I think not.

Senator BURTON. Well, you want to enlarge the powers of the executive, don't you?

Mr. PINKHAM. We do to the extent stated.

Senator BURTON. That is, taking away from the legislative department and contributing to the executive department. Do you know of any Territory anywhere where the executive has as much power as the present executive has in this one?

Mr. PINKHAM. I am not acquainted with the Territories of the continental United States.

Senator BURTON. I believe that you have said there can be no charge of extravagance made against the last legislature.

Mr. PINKHAM. I do not wish to make that charge.

Senator BURTON. Well, you have not heard such a charge made, have you? On the contrary, the claim is that they do not appropriate a sufficient amount for the government as recommended by the governor.

Mr. PINKHAM. I understand that there was a conflict between the executive and the legislature over appropriations.

Senator BURTON. Was it not because the legislature failed to appropriate the amounts as recommended by the governor?

Mr. PINKHAM. It would be difficult to define a conflict between the legislature and the executive as simply on financial issues.

Senator BURTON. Well, that was one of the conflicts, was it not?

Mr. PINKHAM. It was.

Senator BURTON. And it was because the legislature would not appropriate as much as the governor had asked for—the claim being that the executive was impaired for want of sufficient funds?

Mr. PINKHAM. That has been claimed.

Senator FOSTER. Are there any people in this Territory who were opposed to annexation who still continue their opposition, among the white people?

Mr. PINKHAM. Well, there are some who doubt it having been a wise step.

Senator FOSTER. Are they citizens?

Mr. PINKHAM. They are citizens.

Senator MITCHELL. What is the opinion of your association on that subject?

Mr. PINKHAM. Our association believes in annexation.

LOSSES FROM BUBONIC PLAGUE.

Senator MITCHELL. What do you wish to say upon the subject, if anything, of the bubonic plague?

Mr. PINKHAM. We think that all that is necessary has been said in the memorial, except to repeat the justice and necessity of the relief we believe to be apparent.

Senator MITCHELL. Can you state the total amount of the claims that have been reported favorably by the Commission?

Mr. PINKHAM. I can not state the exact amount. I think about \$1,400,000.

Senator FOSTER. Is that the total amount of claims that have been proven up?

Mr. PINKHAM. I think that is the award.

Senator MITCHELL. The total of the award?

Mr. PINKHAM. Yes, sir.

Senator FOSTER. How many of those claims have been settled and paid by the Territory?

Mr. PINKHAM. I have not heard of any having been paid by the Territory.

PUBLIC FEDERAL IMPROVEMENTS.

Senator MITCHELL. Well, the next head is, "Public Federal improvements." What have you to say on that subject, Mr. Pinkham?

Mr. PINKHAM. I think that the paragraph speaks for itself.

Senator MITCHELL. State in this connection under that head what Government buildings there are in Honolulu, their names, and their character—I mean buildings that are now owned and occupied by the Government.

Mr. PINKHAM. I do not know that I can name them all, but will give the following list: The executive building, formerly the palace. The grounds occupied by it would be about two large-sized blocks; the area I am unable to give.

Senator FOSTER. What is the size of an ordinary block here?

Mr. PINKHAM. It varies. There is no fixed uniformity in the size of blocks here.

Senator FOSTER. Is this building used by the Territorial officers for their offices?

Mr. PINKHAM. Used by the Territorial officers; yes, sir. Opposite is the building called the judiciary building, which occupies about two-thirds of the area above referred to. It is occupied by the Territorial and Federal courts and also some of the local Territorial departments.

Senator MITCHELL. It is a comfortable building, suitable for the courts, is it?

Mr. PINKHAM. Yes, sir; although the quarters are rather limited.

Senator MITCHELL. Any other public buildings?

Mr. PINKHAM. On one part of the grounds is a building occupied

by the survey office and the board of health, and then there is the custom-house building on Fort street.

Senator MITCHELL. Is that building adequate to the needs of the service?

Mr. PINKHAM. It is a building that certainly can be improved upon, but at the present time it answers the purposes; it is hardly considered up to date.

Senator FOSTER. Is it brick or stone?

Mr. PINKHAM. I think it is stone, or a brick possibly, plastered.

LIGHT-HOUSES.

Senator MITCHELL. What have you got to say in regard to light-houses?

Mr. PINKHAM. I have nothing to say about that. It was covered yesterday.

Senator MITCHELL. The memorial states that they are inadequate and still a local charge. That is correct, is it?

Mr. PINKHAM. Yes, sir.

HARBORS.

Senator MITCHELL. Now, the harbors—what have you to say under that head?

Mr. PINKHAM. Nothing particularly to add. The subject, I believe, has been covered.

Senator MITCHELL. They are all still maintained and improved by local expense, are they?

Mr. PINKHAM. Yes, sir.

Senator MITCHELL. Our memorialists regard the proposed improvement of Pearl Harbor as very important, do they?

Mr. PINKHAM. We do.

EXTRAORDINARY REIMBURSEMENT FROM FEDERAL TREASURY.

Senator MITCHELL. Now, in regard to the subject entitled "Extraordinary reimbursement from the Federal Treasury," what have you to say on that subject?

Mr. PINKHAM. Well, the facts here presented were taken, as stated, from the reports of the United States Treasury, as contained in Senate report 1933, Fifty-seventh Congress.

Senator MITCHELL. Well, this statement is correct under this memorial, is it?

Mr. PINKHAM. It is as certified.

RECIPROCITY.

Senator MITCHELL. The next subject stated in your memorial is "Reciprocity advantages." What have you to say under that head?

Mr. PINKHAM. I have not prepared myself with any figures on this subject, but simply wish to call attention to the fact that the United States has enjoyed a very large and almost exclusive trade with the islands for many years previous to and ever since reciprocity; that the islands have been liberal purchasers in every respect; that the advantage of reciprocity occasioned large profit in our one line of industry can not be refuted.

Senator BURTON. What do you mean by reciprocity? There is no tariff duty, is there, between this Government and the mainland?

Mr. PINKHAM. That provided by the reciprocity treaty which allowed the sugar from these islands to pass into the United States without duty. A treaty was made in 1876.

Senator BURTON. You do not want any changes in the tariff law as it is now, do you?

Mr. PINKHAM. We cite that as the era of good times, and it is frequently cited against the islands that it enjoyed special privileges for many years.

Senator BURTON. Do you want the tariff changed from what it is now?

Mr. PINKHAM. We do not.

Senator MITCHELL. You recommend, Mr. Pinkham, in this memorial that all Government contracts and work, so far as skilled labor is concerned, both directly and indirectly, be let only to other than alien labor, and so stipulated. What do you say in regard to unskilled labor?

Mr. PINKHAM. As far as unskilled labor is concerned, our unskilled labor is largely in the hands of aliens, and it is probably not possible to secure the required labor to do the work without employing at least some alien labor.

Senator MITCHELL. Well, when you speak here of "only other than alien labor," do you mean to include alien labor from the mainland of the United States?

Mr. PINKHAM. It is not our wish to draw the line as closely as that; it is aimed particularly at Asiatic labor.

Senator MITCHELL. You also state in your memorial this: "That should political unrest and incompetency continue that the fundamental law be amended," etc., so as to enlarge the veto power. State in brief, in a sentence or two, what you mean by political unrest and incompetency.

Mr. PINKHAM. As I stated before, there have been apprehensions here that owing to political differences there might possibly be appropriations—forms of local government—that would involve the Territory in expenditures beyond its means, and the Builders and Traders' Association believe that if a large veto power were placed in the hands of the executive it would be a safeguard to the general financial interests of the Territory.

Senator MITCHELL. Your association, then, believes that the interests of your association and the people generally are safer in the hands of the governor than in the legislature and the governor?

Mr. PINKHAM. We believe that if it is in the hands of both, in which the governor has a greater power, the interests of the people will be more safely guarded than they are at the present time.

Senator BURTON. And you say that in the face of the fact that the governor has recommended large expenditures that the legislature would not grant?

Mr. PINKHAM. Yes; with the following explanation: We are not personal in this matter to the present executive; we are speaking and making our representations on what we believe political lines, without bias to or for any party or organization or race differences.

Senator BURTON. Where were you born?

Mr. PINKHAM. In Massachusetts.

Senator BURTON. Please state what the last legislature did that would show it inclined to be in any way extravagant, if any.

Mr. PINKHAM. I have not prepared myself with the special acts of the legislature. If called upon to go over the particular acts I would have to ask for some time.

Senator BURTON. Well, you have gone into it and have recommended the novel and unheard-of power to the governor to acquire a three-fourths vote to pass a bill over his veto, and you say it is based on apprehension that the legislature will be extravagant or will appropriate larger sums than the Territory will be able to pay. You can give no further explanation than you have in regard to these matters?

Mr. PINKHAM. We can only say that that apprehension exists among the members of this organization, that there is such a possibility, and that they desire to provide for such a contingency.

Senator BURTON. There is no apprehension here that the power of the governor is too great, is there?

Mr. PINKHAM. We think not; we think the veto power of this kind would carry with it an opportunity of greater reflection and that hostile measures can not be passed; that there would be greater time for public consideration and more careful consideration under such circumstances.

Senator BURTON. Don't you think it would be safer still if the laws were passed by the governor and his cabinet?

Mr. PINKHAM. That we should be entirely opposed to.

Senator BURTON. Why?

Mr. PINKHAM. Republican form of government, and we do not believe in star-chamber proceedings.

Senator BURTON. Yours is a labor organization?

Mr. PINKHAM. It is composed of the traders and contractors and largest merchants in town, who are members of the organization.

Senator FOSTER. How many members have you in your organization?

Mr. PINKHAM. About 72 concerns.

Senator BURTON. Seventy-two concerns; it is more of a mercantile organization than a labor organization, then?

Mr. PINKHAM. Yes, sir.

Senator MITCHELL. State if you are the selected representative of the committee of your organization to present these matters to our committee.

Mr. PINKHAM. I am.

Senator MITCHELL. How many compose the committee?

Mr. PINKHAM. The committee is composed of four.

Senator MITCHELL. Please give their names.

Mr. PINKHAM. A. Gartley, F. J. Amweg, W. W. Harris, L. E. Pinkham.

Senator MITCHELL. Your committee represent how many different bodies, you say, or persons?

Mr. PINKHAM. About 72 concerns.

Senator MITCHELL. Composed of builders and merchants?

Mr. PINKHAM. Yes, sir.

Senator MITCHELL. And, as you stated in answer to Senator Burton, it is more a mercantile organization than labor organization?

Mr. PINKHAM. Yes, sir.

Senator MITCHELL. Are we to understand that your committee and the members of your association generally agreed to the views that you have presented here?

Mr. PINKHAM. The committee was selected to prepare the memorial, and it was submitted to the members of the association.

Senator MITCHELL. How many directors are there?

Mr. PINKHAM. Ten directors.

Senator MITCHELL. Can you give their names?

Mr. PINKHAM. I can not do it; possibly Mr. Gartley might answer that question.

Senator BURTON. Do the 72 organizations that you represent believe that the governor ought to have a larger veto power here?

Mr. PINKHAM. That view was indorsed by the directors, to whom the memorial was presented.

Senator BURTON. Yet you can't tell what it is based on?

Mr. PINKHAM. We thoroughly believe we have good grounds for our recommendation in this particular.

Senator BURTON. But you can't state the grounds?

Mr. PINKHAM. We think we can state the grounds unless we are brought down to the bills, etc., that did or did not pass the legislature.

Senator BURTON. What are the grounds?

Mr. PINKHAM. Our grounds are the apprehensions that exist here in regard to the inexperience of possibly the forthcoming legislature. We do not know what it will be, but we have put before your committee the suggestions which we would like considered in case the next legislature proves that this alteration in the organic act is required.

Senator MITCHELL. Would these apprehensions, which you say exist in the mind of your association, be either increased or dissipated by any particular result of the next election?

Mr. PINKHAM. We do not depend altogether on the election for any such determination at all. It will be from the results that come from the coming legislature, and this memorial has been addressed to the committee as the only opportunity that it will have to present the matter before Congress, directing their attention specially to the conditions in the Territory of Hawaii.

Senator MITCHELL. Your recommendations, then, to the committee and through us to Congress are not based so much on anything that has happened, but on your apprehensions of what may happen in the future; is that it?

Mr. PINKHAM. Yes, sir.

Senator BURTON. Does your organization believe that Chinese ought to be permitted to be brought here, under certain restrictions, for agricultural purposes only, without going into detail?

Mr. PINKHAM. I do not think the organization would wish to answer that question, if it can be avoided, because it involves an entire discussion of the conditions pertaining to the plantations and of the relations and difficulties under which the planters labor.

Senator FOSTER. How often does your organization have a full membership meeting?

Mr. PINKHAM. Once in six months, and calls special meetings from time to time.

Hon. A. S. HUMPHREYS, being first duly sworn by the chairman of the committee, testified as follows:

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. HUMPHREYS. A. S. Humphreys, age 33, native of Mississippi, residing in the Hawaiian Islands six years.

Senator MITCHELL. What official position or positions have you held in the Hawaiian Islands, either under the monarchy, the republic, or the present status?

Mr. HUMPHREYS. I have held no positions under the Republic of

Hawaii, which was the government in existence when I came here. I have held the position of the first judge of the circuit court of the first circuit in the Hawaiian Islands, in Honolulu, from about the 5th day of July, 1900, up to and including the 1st day of September of the year current.

Senator MITCHELL. Judge, you will now bring to the attention of the committee any matter that occurs to you within the jurisdiction of the committee, which you deem it important in reference to which we should be advised.

Mr. HUMPHREYS. If I may be permitted to do so, I desire to make some brief comment upon certain statements made to the Commission during the forenoon of this day by the secretary of the Territory in reference to the labor question.

Senator MITCHELL. Very well, we will be glad to hear you on that subject.

Mr. HUMPHREYS. In 1874 the legislature of the then Kingdom of Hawaii appropriated, for the purpose of encouraging agriculture and immigration, the sum of \$50,000; in 1876, for the same purpose, the sum of \$35,000 was appropriated; in 1880, as the influence of the sugar planting industries of these islands increased, there was appropriated the sum of \$100,000, or \$15,000 more than that which had been appropriated in the years 1874 and 1876; in 1882 there was appropriated for the same purpose the sum of \$500,000; in 1884, for the same purpose, there was appropriated the sum of \$390,000; in 1886 there was appropriated, all appropriations being for the same purpose—that is to say, for encouraging agriculture and immigration—the sum of \$150,000; in 1888, the sum of \$30,000; in 1890, the sum of \$60,000; making the total appropriation from 1874 to 1890, inclusive, of \$1,315,000, every dollar of which was expended in bringing to this country Asiatic labor, with the exception of certain portions of said appropriations which were expended in bringing to the country Portuguese laborers. The scheme has been to establish a system of contractual slavery in this country. Under the law which existed prior to the annexation of these islands, all of these plantation laborers were required to sign contracts which rendered them amenable to the following provisions of the penal laws of the Hawaiian Islands. Section 1384, penal laws of 1897, which I now read to the committee: (Witness reads:)

If any person lawfully bound to service shall willfully absent himself from such service without the leave of his master, any district magistrate of the Republic, upon complaint made under oath by the master, or by any one on his behalf, may issue a warrant to apprehend such person and bring him before the said magistrate, and if the complaint shall be maintained the magistrate shall order such offender to be restored to his master, and he shall be compelled to serve the remainder of the time for which he originally contracted.

(Witness also reads section of the penal code, 1385:)

If any such person shall refuse to serve according to the provisions of the last section, or the terms of his contract, his master may apply to any district magistrate where he may reside, who shall be authorized by warrant or otherwise to send for the person so refusing, and if such refusal be persisted in to commit such person to prison, there to remain at hard labor until he will consent to serve according to law. And in case such person so bound as aforesaid shall have returned to the service of such master in obedience to such order of such magistrate and shall again willfully absent himself from such service without the leave of his master, such district magistrate may fine such offender for the first offense not exceeding five dollars, and for the second offense not exceeding ten dollars; and in default of payment thereof such offender shall be imprisoned at hard labor until such fine is paid; and for every subsequent offense thereafter the offender

shall be imprisoned at hard labor not exceeding three months; and at the expiration of any such imprisonment such magistrate shall order such offender to be restored to his master to serve for the remainder of such original term of service.

Senator MITCHELL. Have you the date of the passage of that act?

Mr. HUMPHREYS. The date of the passage of the act was 1882, but it was in force here up to the time of the annexation of Hawaii as a Territory; it was in force for two years after we had been annexed as a Territory by the United States.

Senator MITCHELL. Was it repealed then by special statute?

Mr. HUMPHREYS. It was repealed by the act of Congress organizing this Territory.

(Witness reads section 1387 of the statutes of 1897, Penal Code:)

All the costs incurred in any process against a servant, under either the one thousand three hundred and eighty-fourth or one thousand three hundred and eighty-fifth sections, shall be paid the first instance by the complainant, and if the complainant shall be sustained, the master shall have judgment and execution thereof against the offending servant.

Mr. HUMPHREYS (continuing). The point is, if the contract laborer became dissatisfied or was furnished poor and insufficient food, and was required to live in conditions insanitary and harmful to his health, or if he was cruelly dealt with by the overseers of the plantation and sought to emancipate himself from his contract by leaving the plantation, he was arrested and dealt with in a manner provided in the statute; and if he was confined in prison for three months, say, he was docked for all of that time by the plantation. In other words, the plantation was credited with the time on the contract during which the laborer was in prison. Now, I propose to show that the necessity for Asiatic labor in this country is exaggerated and that there never has been an effort to induce white people to come here to work on our plantations, and that conditions have been such as to render it absolutely impossible for any independent, self-respecting white man to come to this country and engage in manual service on the plantations.

Senator MITCHELL. Do these appropriations to which we have called attention specify specifically Asiatic labor—that the money was to be used for the purpose of inducing Asiatic immigration?

Mr. HUMPHREYS. It does not so appear on the face of the legislation, but it is part of the history of this country which I apprehend that no gentleman who desires to be frank with this committee will dispute.

Senator MITCHELL. In what way, briefly, was that money used?

Mr. HUMPHREYS. It was used in employing agents to go to various parts of China and bring Chinese labor to the country, induce them to come.

Senator MITCHELL. Advertising?

Mr. HUMPHREYS. Yes, sir; advertising, expenses of agents, Chinese as well as white agents, and paying passage money. Indeed, in the instance in which a large number of Portuguese was brought from the Azores during the year in which the appropriation of \$500,000 was made, a ship was chartered at the expense of the Hawaiian Government and sent to the Azores for the purpose of bringing laborers here, and the expense of the charter of the ship was paid for out of the appropriation mentioned.

Senator FOSTER. Why did the appropriations increase to such an extent as from \$85,000 in two years up to over \$500,000 the next two years—the demand for labor?

Mr. HUMPHREYS. It depended to a certain extent upon the influence which the planting industries happened to have at that time with the

appropriating power. The appropriation was small in the first instance because it was an experiment, I apprehend.

Senator FOSTER. To get started?

Mr. HUMPHREYS. These policies always accumulate as they gain impetus. Now, here is a report rendered on April 27, 1897, to the president of the board of immigration, by its secretary, which pictures, in studied, but doubtless true, language, the conditions under which these oriental laborers worked on the plantations.

Senator MITCHELL. What is the date of that report?

Mr. HUMPHREYS. April 27, 1897. If I may be permitted to do so, I should like to read an extract from it. I have two reports here, both from the same authority to the same authority, and dated, respectively, at Honolulu, April 27, 1897, and Honolulu, June 19, 1897. May I read a part of it? I may observe that white people, in some instances, who had sought employment on some of these plantations, were subject to all these conditions of espionage and brutality of plantation overseers, who seemed to be divorced from every sentiment of kindness and humanity in their relations with those under their control. An item of expense in oriental labor was the medical attention which these people received at the expense of the plantation.

(Witness here reads as follows:)

DEPARTMENT OF THE INTERIOR, BUREAU OF IMMIGRATION,
Honolulu, H. I., June 19, 1897.

Capt. JAS. A. KING,

President Board of Immigration.

SIR: I have the honor to present the following report of a visit made by me to the Olowalu Sugar Company's plantation, island of Maui, on the 9th day of June, for the purpose of investigating certain complaints made by the Chinese contract laborers on that plantation in a letter to Mr. Goo Kim, Chinese commercial agent, which letter I took with me. Ng Chan, Chinese interpreter, accompanied me to Olowalu.

When I arrived there the manager, Mr. Aug. Hanneberg, was several miles away in the fields, and I had been there fully two hours before he returned. However, in the meantime, I went on with my investigations among the laborers. Their letter to Mr. Goo Kim complained of persistent docking of their wages and harsh treatment.

With regard to the former complaint, I had before I went to Olowalu, and still have in my possession, one of the plantation books, showing the Chinese laborers' time for each month from March, 1896, to April, 1897. The book speaks for itself, and proves on every page that the men's complaint is not without foundation. The manager admitted he docked the men for working slow; it was the law, and he would do it. He is too severe, and if this docking habit of his is not checked there will always be trouble with laborers at Olowalu.

As to the second complaint, harsh treatment, I examined 16 of the laborers on the plantation, 10 of whom signed the letter to Mr. Goo Kim. I asked two of them—before the manager—if he had ever kicked them, and they replied through the interpreter that not only had he kicked them but others, too. Mr. Hanneberg denied their statements, but admitted to me he had pulled the men out of their quarters for various reasons and pushed them around.

Ah Mun, a free laborer, who has been at Olowalu some time, said that the free laborers were treated better than those under contract.

The manager has a bad habit of going into the laborers' quarters and pulling them out.

Lam Hing Wing, cook for a gang, said he never got full pay, though he worked all the time. Two Hawaiians told me they had worked on the plantation, but had left, as the manager was a very hard man to work for.

The laborers' quarters are the filthiest I have ever been in; in fact, the whole plantation is in need of a cleaning up. The inside of the rooms are black with cobwebs, and it looks as if whitewash was unknown on the place. Mr. Hanneberg said he intended to whitewash the houses at once. I sincerely hope he has done so.

The treatment of sick laborers on the plantation is such that it practically amounts to cruelty. Near the beach, a good distance from the men's quarters, is a room about 12 by 12 used as a hospital. The laborers call it the jail. I found

in it at the time of my visit 5 Chinese and 4 Japanese laborers, all sick. The room was in a filthy condition. These sick men have to leave their quarters early in the morning when the whistle blows and go to the hospital, remaining there all day until the evening whistle blows, when they are allowed to return to their quarters. Is this humane treatment? I hardly think so. I questioned Mr. Hanneberg on this matter, and he said that if the men were allowed to stay in their quarters their friends visited them, and there were other reasons given by him.

This is not the first time that complaints have been made against Olowalu. The place is isolated, and I think there is a good deal going on on the plantation that is not heard of. Some time ago I talked to Mr. W. G. Irwin and Manager Hanneberg about the complaints made by the laborers. The manager should be made to understand that he must keep his hands off the laborers; must be less severe in his system of docking; must keep the laborers' quarters in better condition, and, above all, must put an end to the confinement in hospital. If he is not willing to do so, then no more contract laborers should be allowed to go to Olowalu.

I have the honor to be, your obedient servant,

WRAY TAYLOR,
Secretary Bureau of Immigration.

Mr. HUMPHREYS (continuing). Now, this report was never acted upon.

Senator MITCHELL. What official was that?

Mr. HUMPHREYS. He was secretary of the board of immigration, an officer under the republic of Hawaii. Now, this is in reference to another plantation, and one of the largest and most profitable in the Hawaiian Islands. Despite the alleged depreciation of sugar values, its stock is largely held above par and it is a paying investment, which would render its stock on the mainland a specially attractive investment.

Senator MITCHELL. Do you know the amount of the capital stock?

Mr. HUMPHREYS. I can give it in a moment by reference to data.

(Witness reads the following:)

DEPARTMENT OF INTERIOR, BUREAU OF IMMIGRATION,
Honolulu, H. I., April 27, 1897.

Capt. J. A. KING,

President Board of Immigration.

SIR: In accordance with your instructions, I left Honolulu on the steamer *Mikahala*, Wednesday, April 21, and proceeded to Lihue, Kauai, for the purpose of investigating the causes that led up to the recent riot on Lihue plantation, and which resulted in the death of a Chinese contract laborer and the arrest of 15 others on the charge of rioting. Ng Chang, a Chinese interpreter, accompanied me.

Arriving at Lihue on the 22d at 4 p. m., I at once made myself known to Mr. Carl Wolters, the manager, and stated to him the object of my visit and then had a long conversation with him. At the time of my arrival all was quiet on the plantation.

Early next morning I was out in the fields among a large gang of Chinese and Japanese laborers. I picked out the following men: Lau Pow, Leong Chin, Chung Hop, Shun Bun, Chin Yow, Fook Lung, Dung Mee, and Wong Duck, took them one by one and examined them, through the interpreter, in regard to the recent trouble, as well as to how they had been treated on the plantation since their arrival. The testimony was very much the same in each case.

Their chief complaint was directed against the head luna, William Zoller, who, they say, was at all times very hard in his treatment of them. When they would line up for work in a morning, waiting to receive their tools, if they did not move quite fast enough to suit him he would knock them about or else kick them. Sometimes he would poke them in the back with the handle of a hoe. When in the field they were at work doing their best he would yell at them to work quicker. In fact, he was at them pretty much all the time they were out in the fields. He rarely spoke to them through an interpreter, and as a consequence they could not understand what he said, as they are not acquainted with the English language. On the morning of the row they testified that after lining up and while waiting for their tools the luna, instead of giving out the tools, shouted out something which they afterwards understood was an order to go and pick up rocks.

At the time they did not understand the order, and this, they claim, is what started the whole row and led to the fight, as they were pretty well warmed up and very much angered toward the luna. If he had told them through the interpreter what he wanted instead of abusing one or two of their number it would have been different. It was no use making any complaint to the manager, for he took no notice of them. They understood that they were to work on the plantation for three years, under contract, and were willing to do so to the best of their ability if properly treated. They did not appear to have any serious grievance against the other lunas.

Since the rioting they claim that they have been treated a little better, yet there is room for much improvement. They claim that to be arrested for not working quick enough is a hardship, and at the same time they lose their money. The men receive \$12.50 a month, but out of this \$1.50 is remitted to the board of immigration toward paying the laborer's return passage when he desires to return to China. This leaves him \$11; but there are very few that receive over \$6 or \$7, and some of them even less than that, on account of the persistent docking, for what they are at a loss to understand. It would be of no use to say anything to the manager; he is always deaf to any of their complaints. Their next complaint was with regard to the number of hours they have to work. The contracts call for ten hours in the field. In this matter I find that the men are turned out earlier than they ought to be, and sometimes are a little late in being sent home. I do not know what particular time is kept on the plantation, but I am very much under the impression, from what I gathered, that the mill clock is one of a kind that moves quickly or slowly as required. The men told me that since the fight the clock had changed. Another piece of information they gave was that the sheriff, through his own interpreter, told them that they could leave the plantation any time by paying \$50, and go where they liked. This is only partly true. The sheriff has in his possession a letter from Manager Wolters, stating that as the men were a vicious and bad lot he would like to release them. But Mr. Wolters forgets that he has not the authority to do so. It can only be obtained from the board of immigration, and then on certain conditions.

In regard to the docking of their wages, the men could not explain for what reason this was done, and certainly I got very little satisfaction from those in charge when I went into the matter. Sometimes a man feels sick when he gets up, and, like other people, wants to see a doctor. He visits the doctor, who has probably quite a number to attend to. Say he gets through with the doctor about 10 o'clock, gets medicine, and feels better. If he goes in the field at noon to work the afternoon, the bookkeeper told me they do not pay the man for the afternoon. Some explanation was afterwards made to me by the manager, but it was not entirely satisfactory. The same may be said when I asked the question, "Do you dock the men's wages for working slowly?" The manager pays the men their wages, and I have asked him in future to be very careful in his system of docking and do it fairly. If the men have a grievance as to their wages, let it be stated through the interpreter. The idea of pushing a laborer on one side for asking the reason his wages have been docked, without any explanation, is not right.

Another complaint was that of a sick laborer, who was recently returned to China, had seventeen days' pay coming to him, which had not been paid. As the bookkeeper was laid up sick at his home, he could not explain without looking at his books. I have requested the matter to be looked into when he is well and reported to me.

I next interviewed the luna, William Zoller. This man has been on the Lihue plantation for several years. He complains that the Chinese laborers are a tough and a bad lot and hard to get along with. On the morning of the riot he says that the Chinese started the riot by coming out armed with sticks under their clothes. He did not say what caused them to come out armed. On pressing him he admitted that he had laid hands on laborers at different times. The manager also confirmed this latter statement. I was also informed that Zoller has been seen to go behind Japanese laborers in the fields, lift them up by their heads, and drop them. Lunas Wolters, Schmidt, and a German were questioned, but had very little to say. They said they had had very little trouble with the men and did not think Zoller had. I called on Dr. Watt, but as he had only been three weeks on the plantation he could not say very much. He was unable to say anything from personal experience. He was very careful in his examination of the laborers, and would not send men out in the fields to work without he was fully satisfied as to their condition.

Kwong Wa Chang, a Chinese storekeeper, stated that the Chinese laborers on the plantation were treated very badly and were always complaining to him.

Meeting Mr. A. S. Wilcox on the last day of my visit and asking what I was doing in Lihue, he said to me, without being asked, that he was very glad some one had come down to investigate; it was very necessary to inquire into the brutal treatment that had been going on on that plantation.

Mr. George H. Fairchild, manager of the Makee Sugar Company, has a number of Chinese laborers who came at the same time and from the same place as those on Lihue. He says he has had no trouble with them. He does not allow his lunas to touch the men, and is very strict in this matter. .

A lady well known in Lihue volunteered the statement that she was ready at any time to testify to the illtreatment the laborers received at the hands of the lunas.

In my several conversations with the manager, Mr. Carl Wolters, he denied the truth of many of the statements made to me by the Chinese. He said that while away a short time ago there was trouble on the plantation and the head luna was really the cause of it. About fifteen months ago the same luna had quite a row with the Japanese laborers. I said: "Why don't you get rid of that head luna, seeing that he is the cause of so much trouble?" and Mr. Wolters did not see how to answer me. He does not like to have trouble with his men, and his orders are that the lunas must not abuse the men.

I desire to state that after examining the laborers in the field I told them who I was, how I had been sent by the Government to inquire into the trouble, and that Mr. Goo Kim Fui, their representative, knew I had come. I then in brief told them of the law under which they had come into the country; that at all times they were under the protection of the laws of Hawaii. They must at all times obey the laws. If they had any serious grievance they must at once report it to Mr. Goo Kim. They should never take the law in their own hands. No good would come from that. I told them it was certainly not the wish of the Hawaiian government to hear of them being illtreated. If at any time their wages were not correct they should go to the manager with their interpreter. They thanked me for coming and listening to their troubles and hoped they would be treated better in the future.

I visited the laborers while in their quarters, and also while they were away. They did not make any complaints, but really there is much room for improvement. I told the manager they were living in too crowded a condition. In one room, 15 by 20 feet, 14 men were sleeping; in another, 16 by 20, 20 men were living.

If I may be allowed to review the above evidence and statement, I do not think there is any difficulty in coming to the conclusion that the trouble which ended in serious rioting and the loss of life was brought on by the harsh and what I consider cruel treatment the laborers have received at the hands of the head luna, William Zoller.

There is not a man on the plantation that likes him or has any good word for him. I am of the opinion that this man and the manager do not get along together and that the latter is afraid of Zoller. If the manager's instructions to the lunas have been to keep their hands off the laborers, they have not been followed out, and the manager is open to the severest criticism.

There is no way in which I can speak good of the Lihue plantation. I have listened to no outside or street talk, I accepted no hospitality from anyone in Lihue, had my eyes and ears open all the time I was there, and am fully convinced, after careful consideration, that in order to prevent a repetition of the past, William Zoller, the head luna, should at once be discharged from the plantation, and that Manager Wolters should be reprimanded and held to strict account for the better treatment of the laborers in the future. The docking of the laborers' wages should be done fairly, and their grievances should be given a hearing. There are soon some Chinese to arrive for Lihue, and I think that something should be done before they are sent to the plantation.

Respectfully submitted.

WRAY TAYLOR.

Secretary Bureau of Immigration.

Mr. HUMPHREYS (continuing). Now, under these conditions you can readily understand why they were not conducive to the settlement of this country by a thrifty and desirable peasantry.

Senator MITCHELL. Proceed, Judge.

Mr. HUMPHREYS. After the annexation of the Hawaiian Islands with the United States on the 7th of July, 1898, the authorities in control of the Hawaiian Islands, fearing that it would react upon them if

Chinese were brought into the Hawaiian Islands, encouraged the importation of a large number of Japanese laborers from Japan. During the period of time intervening between the annexation of the islands, to wit, on the 7th day of July, 1898, and the organization of the islands into a Territory of the United States, on the 14th day of June, 1900, many hundreds of Japanese, men and women, were brought into the country. I have data which I will ask leave to file later and to which I now make brief reference, showing the condition under which something more than 200 Porto Ricans were brought to these islands, and the wretched and disgraceful conditions under which they were brought here.

Senator MITCHELL. Make a brief statement.

Mr. HUMPHREYS. A ship or ships were chartered by the planting interests here, and they secured Porto Rican agents who were supposed to have some influence over the lower classes, and these laborers were brought here on these ships to labor on the plantations, as they all with one voice declare, under a misrepresentation as to the wage they were to receive and as to the treatment that was to be accorded to them. I might best express the condition in which these laborers were when they arrived in the harbor of Honolulu by saying that the men and women and children confined in the reconcentrado camps near Habana were not more suffering than these people. They had been neglected, they had been given short rations on the sea voyage here, and even the agents of the sugar plantations in the name of humanity declaimed against the inhuman treatment to which they were subjected. I will, if I may be permitted to do so, refer to an editorial in the Pacific Commercial Advertiser and a clipping from its news column in relation to the starving and wretched condition in which these people were.

Senator MITCHELL. In what proportion were they women and children?

Mr. HUMPHREYS. That I am unprepared to say, but I may be able to secure precise data for your information. During the last fourteen months something like 500 white men, mechanics with their families, American citizens who came out here to build homes for themselves after the annexation, have left, unable to cope with the Japanese and Chinese mechanics, who do 65 per cent of the trade work of this community, and by that I mean house building, painting, paper hanging, etc. You have only to walk down Nuuanu street, between Merchant street and Vineyard street, to see the business pursuits of the Japanese and Chinese in this country. It is impossible for an American to come here and do business. He can not compete with people who do not educate their children; who have not those aspirations which mark the American citizen. They live in the back part of their stores and their domestic life is neither creditable nor beneficial to the community. The entire western portion of the city is monopolized by the Chinese and Japanese tradesmen. There are streets several blocks long upon which you will not find a white man doing business, but you will find innumerable Chinese and Japanese merchants.

Now, about the increased cost of Chinese and Japanese or foreign labor since the annexation of the islands. The statement was made that they were paid from \$18 to \$20 a month. I believe, and if permitted to do so by hostile testimony I think I can establish, that the statement was incorrect. I do not presume to say designedly incorrect. The average wage upon the plantations of Hawaii is \$14 a month, it ranges from \$14 to \$15 per month, with that system of dock-

ing which has been already explained. These wages do not run from \$18 to \$20 as stated—

Senator MITCHELL. Who fills the position of house servants?

Mr. HUMPHREYS. Chinese and Japanese.

Senator MITCHELL. What is the average wage paid them?

Mr. HUMPHREYS. As house servants they receive considerably more than as a plantation laborer. A servant who looks after the yard, waters the lawn and takes care of the lawn—what we call a yard boy—is paid from \$2.50 to \$3.50 a week. A very good boy, one who knows something of horticulture, etc., would receive probably \$3.50 a week. Cooks receive from \$3 to \$7 a week.

Senator MITCHELL. Has there been any effort made at all to induce American labor here?

Mr. HUMPHREYS. Absolutely none. I mean none has been made in good faith. For the purpose of alleging the necessity of Chinese and Japanese labor some pretense has been made of encouraging white labor here so they could argue that it was a failure.

Senator FOSTER. When you say a "pretense" what do you mean?

Mr. HUMPHREYS. I mean the conditions under which they were required to work here were such that no white man would work, and then the cry went up that they must have foreign labor.

Senator FOSTER. They were to sign similar contracts?

Mr. HUMPHREYS. They were. Now, another thing in regard to this matter. Under the Constitution of the United States any person born within the jurisdiction of the United States is a citizen of the United States. Chinese or Japanese coming here under the contract-labor law might leave behind him three citizens of the United States. We have to-day in this Territory, out of a population of about 140,000 people, 60,000 foreigners, 25,000 of whom are Chinese. Now, you can get a pretty good idea of the number of prospective American citizens we have here by walking down Nuuanu street, King street, Hotel street, Kukui, or River streets. You can see them on the streets every day. These little children are citizens of the United States and entitled to stay here or go to any part of the United States they may desire.

Senator FOSTER. Do they all wear queues? The Chinese, I mean.

Mr. HUMPHREYS. I believe the majority of them do. Now, we have here the anomaly of a child's becoming a citizen of the United States from the mere fact of physical—or place of birth, when the parent of that child, despite wealth or anything else, can never be naturalized.

Senator MITCHELL. Do you think it is possible to Americanize these islands and yet preserve your industries here?

Mr. HUMPHREYS. I think the Americanism of the islands is vastly more important than the preservation of the industries, and between the two I am prepared to sacrifice my industries, but I don't believe they will be sacrificed. I think the claim that they will be sacrificed unless we are surrounded with conditions which do not exist in other American countries is for the purpose of increasing dividends.

Senator MITCHELL. Just that subject of dividends now. You heard the statement of the secretary that there has been a failure recently to pay dividends, and he also stated furthermore that he wished us to understand from that statement that they failed to pay a reasonable amount on the capital invested?

Mr. HUMPHREYS. I did and to some extent it is true. To a very large extent it is true. A number of plantations produced a very small percentage of the average crop last year and the year before and this year because of unusual climatic conditions.

Senator MITCHELL. Well, has the business of watering stocks—does that prevail here?

Mr. HUMPHREYS. It has been done since the annexation for the purpose of selling the stocks to investors from the mainland. Our securities were then considered as reasonably sure. Now, I understand that if I buy a pair of shoes for \$6, wear them out and pay \$1.50 for half soles, that my shoes are not worth \$7.50, although that is the total cost. I consider the shoes worth something less than that.

So, if I buy a house for \$10,000 and after a lapse of five years have it painted at a cost of \$250, it is not worth \$10,250. The depreciation of wear and tear would probably make it worth about \$9,750 instead. That is a proposition so simple that we all can realize it. That is the way with the plantations. In the first instance the mill cost \$300,000, and as machinery became improved and better adapted to the use to which it was to be applied and as the machinery became old and worn out, they bought a new mill that cost \$500,000. I shouldn't say that that plantation would be worth \$300,000 plus the cost of the new mill. Now, for instance to show how the stocks have been watered. There was a plantation called Kihei. The land site on which that plantation was promoted was barren and waste. It paid taxes on a value of \$25,000, and that was all. The plantation was incorporated at \$350,000 and the promoters took one-half of the stock and people thought the price of sugar would be maintained, and school teachers, clerks, and everybody in Honolulu tumbled over themselves to get stock, and to assist the promoters in their schemes, so that there has been a watering and a large watering of stock in the Hawaiian Islands.

Senator MITCHELL. You are a lawyer, Judge, and have been on the bench, you say, for some years here and have lived some time in the Territory. Are you familiar with the status or condition of the public lands of this Territory?

Mr. HUMPHREYS. I have some general information in regard to public lands, but at a later date I hope, with the permission of the Commission, to make a detailed statement. I would ask that I may be excused from testifying in regard to the matter now.

Senator MITCHELL. We simply want to get information from different sources. We will hear Mr. Boyd's testimony and will be glad to hear your views.

Mr. HUMPHREYS. I desire to call the attention of the Commission to an act of Congress entitled "An act to provide a government for the Territory of Hawaii," Fifty-sixth Congress, United States. I call your attention to section 34, qualifications of senators: "Have resided in the Hawaiian Islands not less than three years and be qualified to vote for senators in the district from which he is elected." That provision was put in by people who have lived in the Hawaiian Islands for the purpose of preserving the old parties in the Hawaiian Islands.

Senator MITCHELL. Does that apply to representatives?

Mr. HUMPHREYS. Yes, sir. There is not a State in the American Union in which the same law applies, and it should not be the rule of a new Territory which we are seeking to imbue with the spirit of Americanism. I would suggest that the qualification of a senator be that he shall have resided in the Hawaiian Islands for the period of six months next preceeding his election and that every voter in this Territory be privileged to aspire to that office. I think that when a man will come away across that expanse of water he evinces a spirit that should entitle him to some consideration.

I also call the attention of the committee, furthermore, to the gov-

error: "He shall not be less than thirty-five years of age; shall be a citizen of the Territory of Hawaii." I ask that—I recommend that—the age limit be removed. Also in regard to the governor being a citizen of the Territory of Hawaii. It should be sufficient that he is a citizen of the United States. The same thing may be said of the judges. The judges, with the exception of the Federal judge, are all required to be citizens of the Territory of Hawaii and to have resided here for one year before they are qualified for the position of judge.

I want to call your attention, Senators, to the section on the judiciary:

The judicial power of the Territory shall be vested in one supreme court, circuit courts, and in such inferior courts as the legislature may from time to time establish. And until the legislature shall otherwise provide, the laws of Hawaii heretofore in force concerning the several courts and their jurisdiction and procedure shall continue in force except as herein otherwise provided. The supreme court shall consist of a chief justice and two associate justices, who shall be citizens of the Territory of Hawaii, and shall be appointed by the President of the United States, by and with the advice and consent of the Senate of the United States, and may be removed by the President: *Provided, however,* That in case of the disqualification or absence of any justice thereof, in any cause pending before the court, on the trial and determination of said cause his place shall be filled as provided by law.

Further—

The laws of the United States relating to appeals, writs of error, removal of causes, and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii.

Such a law does not exist in any other Territory of the United States. The reason assigned for adopting this peculiar provision and applying it to the Hawaiian Islands was on account of our distance from the mainland and the delay and expense there would be in appeals. In providing a government for the Philippines they provided that appeals shall lie to the United States, and it should be so here. It would give a sense of security to investment here and I think would tend largely to encourage Americans to invest here.

Senator BURTON. The local judges are appointed by the governor?

Mr. HUMPHREYS. Appointed by the President, and they are required to be residents of the Territory of Hawaii.

Senator MITCHELL. What reason, if any, was given for having that provision here in regard to appeals?

Mr. HUMPHREYS. I have just given the reason that is now stated. Our distance from Washington would render our appeals expensive and there would be great delay in them.

Senator BURTON. You spoke about how a vacancy in the supreme bench could be filled.

Mr. HUMPHREYS. I am going to pass to that now. The supreme court consists of a chief justice and two associate justices. In the case of the disqualification or absence of any justice thereof, in any cause pending before the court, on the trial and determination of said cause his place shall be filled as provided by law. Now, the law provided that in case any justice shall be prevented or shall be unable to attend from sickness, absence, or any other reason (sec. 1170 of the civil laws of 1897) his place, on the trial and determination of the said cause, shall be filled by one of the circuit judges who has no connection with the suit, either as counsel or in his professional capacity, or by any competent and disinterested member of the bar of the supreme court thereunto appointed by the written request of the remaining

justice or justices. So that if you have a cause pending before the supreme court involving a great amount of money and two of the justices are absent for any reason the remaining justice can call in two members of the bar and they will constitute the supreme court of this Territory for the purpose of hearing your case, and from their decision no appeal can be taken.

I had my clerk run down the cases tried before the supreme court in 12th Hawaiian, and out of 64 cases decided 42 cases were decided by a court composed in part of gentlemen who were not members of the court except as they had been called in to determine a special case, and some of these cases were issues involving our relations with the United States, issues involving life and liberty, and some of the members of the bar who sat were young men right out of the law school.

Senator FOSTER. And no appeal can be taken from their decisions?

Mr. HUMPHREYS. No, sir. In 13th Hawaiian out of 121 cases reported 29 were decided by a court composed partly of men who were not regular justices of the court—29 cases out of 121, something more than 20 per cent. In 12th Hawaiian the percentage decided by gentlemen other than the regular justices exceeds 56½ per cent.

Senator BURTON. And they were not really decided by men appointed by the President of the United States?

Mr. HUMPHREYS. No, sir.

Senator BURTON. Suppose the supreme court meets one day and there are two vacancies and two men are called in to fill those vacancies, and then after one case is tried the third man, the only one left who was appointed by the President of the United States, is sick, can that vacancy then be filled?

Mr. HUMPHREYS. That is a question that has never been raised, but I apprehend if it was raised they would unhesitatingly decide that they did have the power.

Senator MITCHELL. You suggest an amendment in that section?

Mr. HUMPHREYS. I do, most decidedly, and I desire further to state, with reference to the judiciary, that the organic act provides in section 81, "The judicial power of the Territory shall be vested in one supreme court and circuit courts, and in such inferior courts as the legislature may from time to time establish." At that time there were only two circuit judges. Since then the legislature has passed an act that "the circuit court shall consist of three judges, who shall be styled the first, second, and third judges, either of whom may hold a court," and under that act the President has appointed a third judge. There are only two judges now, because the vacancy caused by my resignation has not been filled; and I desire to state now from my two year's experience on the bench, and I have the permission of my former colleague, Judge Gear, to state it, there is absolutely no necessity for three judges in Honolulu; that is, three circuit judges. I will take the liberty of reading a portion of a written opinion which I delivered to the Attorney-General, at Washington, at his request. I had a verbal conversation with him, and he said he was impressed by what I had to say, and asked me to formulate my views in a written opinion, which I did:

As to the recent act passed by the legislature of the Territory, my opinion is that it is ineffective by reason of want of power in the legislature to enact such legislation.

Section 55 of the organic act (April 30, 1900) provides "that the legislative power of the Territory shall extend to all rightful subjects

of legislation not inconsistent with the Constitution and laws of the United States locally applicable." It would seem that other portions of the same act, not merely "locally applicable," but expressly enacted to be of local application, are inconsistent with the power attempted to be exercised by the Territorial legislature. Such inconsistency fully appears, I think, from the following considerations:

Section 81 of the organic act provides "that the judicial power of the Territory shall be vested in one supreme court, circuit courts, and in such inferior courts as the legislature may from time to time establish." This language is evidently modeled upon Article III, section 1, of the Constitution of the United States, by which it is provided that "the judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish." In construing this provision of the Constitution the Supreme Court in *United States v. Union Pacific Railroad Company* (98 U. S., 569) said:

With the exception of the Supreme Court the authority of Congress in creating courts and conferring on them all or much or little of the judicial power vested in the United States is unlimited by the Constitution.

This of course means that where the Constitution itself established a court, the legislature of the nation could make no provision inconsistent with the provisions of the Constitution relating to such court. Similarly, it seems to me, where Congress has passed an organic act, which stands in the relation of a constitution to the Territorial government of Hawaii, that government has no power to make provision for the establishment, organization, or modification of the courts so established.

In the case of the Supreme Court of the United States it is true that the details or organization were committed by the Constitution to Congress, which thereupon acted, and properly acted. In the Hawaiian organic act, however, the details of organization of the courts established by that act and specially named therein were not committed to the legislature of Hawaii, but the existing courts of the Republic of Hawaii were adopted by said act, except that the number of circuit judges outside of the first circuit were increased. While, therefore, Congress was by the Constitution given unlimited power to ordain and establish any courts which in its wisdom it might deem necessary, subject only to the provision that there must be a Supreme Court, the organic act gives similar unlimited power to the Territorial legislature to establish all courts which it may deem necessary, provided that there must be a supreme court and circuit courts. In the former case the Constitution itself ordained and established the Supreme Court. In the latter case the organic act itself ordains and establishes a supreme court and circuit courts.

It goes without saying that only the power which establishes has the right to modify. Otherwise a tribunal established by competent authority becomes from the instance of its creation subject, not to that authority, but to the authority of another or inferior power. If the Territory of Hawaii can change the organization of the circuit court as established by Congress in adopting the existing judicial machinery of the former Republic by providing one additional judge, it has of course the right to provide a hundred additional judges.

It is true that section 81 provided that—

Until the legislature shall otherwise provide, the laws of Hawaii heretofore in force concerning the several courts and their jurisdiction and procedure shall continue in force except as herein otherwise provided.

This seems to refer to section 83, which provides—

That the laws of Hawaii relative to the judicial department, including civil and criminal procedure, except as amended by this act, are continued in force, subject to modification by Congress or the legislature.

These provisions would seem at first sight to give a dual and concurrent authority in regulating the courts of the Territory. It can not be questioned, however, that the authority of the legislature is not equal to that of Congress and that where Congress acts the authority of the legislature is ipso facto excluded. Inasmuch as Congress has acted in providing for the establishment of circuit courts on the basis of the courts then existing in the islands (which basis gave two judges to the first circuit), the legislature would seem to be without power to add to the number of judges so provided by Congress. A *reductio ad absurdum* arises if the power of the legislature to add to the number of judges be admitted. It is that the correlative power must also be conceded to exist of reducing the number of judges, whereby a judicial officer appointed by the President and confirmed by the Senate of the United States would be legislated out of office by the Territorial legislature.

Furthermore, section 80 of the organic act prescribes a tenure of office for the circuit judges, and provides that they shall be appointed by the President of the United States. It seems to me evident that Congress did not intend to place it within the power of a Territorial legislature to prescribe a duty to be performed by the President. Said section also provides that the Presidential appointment shall be made by and with the advice and consent of the Senate, and it seems quite as unlikely that Congress should have provided that a Territorial legislature, itself in part the creature of the Senate, might establish offices which it will become the duty of the Senate to assist in filling. If the statute can be so interpreted it will, so far as my knowledge goes, be the only instance in which Congress has permitted a Territorial legislature to lay out duties to be performed by the President and Senate of the United States.

Judges appointed by the President with the cooperation of the Senate are constitutional officers, as determined by the Supreme Court in the *Germaine* case (99 U. S., 508), under Article II, section 2, of the Constitution. Said section prescribes, in paragraph 2, the officers which shall be so appointed, and includes certain named officers "and all other officers of the United States whose appointments are not herein otherwise provided for and which shall be established by law." The "law" referred to evidently means laws passed by Congress and not laws passed by Territorial legislatures. If, therefore, the office of additional judge is "established" by act of the legislature of Hawaii there would seem to be no authority in the President and Senate to fill the office thus created. So the office must remain vacant or be filled by some other method of appointment. But no other method of appointment is possible in view of the provision of section 80 of the organic act above quoted.

Furthermore, the act of the Territorial legislature, if valid, makes a draft on the Treasury of the United States by creating an office the compensation attached to which is paid from that Treasury. The salaries of circuit judges holding Presidential appointments are, under section 92 of the organic act, paid by the customary Treasury warrants. The Territorial act made no provision for the salary of an additional judge and, under the organic act, the legislature would have had no authority to make such provision had it so attempted.

If the attempted creation of this additional office by the Territorial legislature was effective, it follows that the incumbent can not be paid except by money in the Treasury of the United States, duly appropriated by Congress. The office would, therefore, remain in abeyance until Congress made such appropriation, unless there be some fund in the Treasury which could be used for that purpose. If there is such a fund, the Territorial legislature might establish any number of similar offices, each constituting a draft upon the Treasury. If there is no such fund, the actual establishment of the office must necessarily await Congressional action, which would be much more properly taken in the usual course of such action than as a supplement to a Territorial act.

For the reasons above stated, I believe the act of the Territorial legislature providing for an additional judge, however great the necessity therefor may be, was ineffective for lack of power in the legislature. I ought to say, however, that the honorable justices of the supreme court of the Territory were consulted at the time the proposed legislation was pending and unofficially expressed an opinion contrary to the views entertained by me as above set forth.

Senator MITCHELL. Who holds the position of third judge?

Mr. HUMPHREYS. A young gentleman by the name of W. J. Robinson.

Senator MITCHELL. The suggested amendment would not necessarily urge him out of office?

Mr. HUMPHREYS. No, sir; I think not. I do not want it to. I have one other suggestion in reference to the organic act. I call your attention to section 80 of the organic act:

That the President shall nominate and, by and with the advice and consent of the Senate, appoint the chief justices and justices of the supreme court, the judges of the circuit courts, who shall hold their respective offices for the term of four years, unless sooner removed by the President; and the governor shall nominate and, by and with the advice and consent of the senate of the Territory of Hawaii, appoint the attorney-general, treasurer, commissioner of public lands, commissioner of agriculture and forestry, superintendent of public works, superintendent of public instruction, auditor, deputy auditor, surveyor, high sheriff, members of the board of health, commissioners of public instruction, board of prison inspectors, board of registration and inspectors of election, and any other board of a public character that may be created by law; and he may make such appointments when the senate is not in session by granting commissions, which shall, unless such appointments are confirmed, expire at the end of the next session of the senate.

I submit it should be left entirely with the legislature to make those appointments. I submit it should not be left entirely with one man.

I am going to call your attention to some appropriations. I am going to show how easy it is for the executive in this Territory to dominate and control it. The salary of the attorney-general, who is also a relative of the governor's, is \$9,000 for two years. The attorney-general is allowed a deputy attorney-general, at a salary of \$3,000; he is allowed an assistant, at a salary of \$2,400 a year; and he is allowed a clerk, at a salary of \$1,800; a stenographer, at a salary of \$1,500, and after the legislature has made an appropriation for every conceivable expense to which his office might be subjected they have given him for incidental expenses an appropriation of \$30,000 for two years.

Senator FOSTER. For contingent expenses?

Mr. HUMPHREYS. Yes, sir; after providing for every possible expense to which he may be subjected.

Senator MITCHELL. Is he compelled to make any report of how it is used?

Mr. HUMPHREYS. I think once he did, and his report was made up of small items, such as 25 cents for a telegram and 10 cents for matches, etc. The salary of the auditor and for his bookkeeper and his assistants amounts to \$12,000, and the appropriation for incidentals is \$15,000.

Senator MITCHELL. These salaries are fixed by the Territorial legislature?

Mr. HUMPHREYS. Yes; but the estimate is first made by the governor, and they simply confirm his estimate.

Senator MITCHELL. What is the salary of the secretary of the Territory?

Mr. HUMPHREYS. He receives a salary of \$3,000.

Senator BURTON. Did I understand you to say that the department of the attorney-general should have \$30,000 for the biennial period for incidental expenses?

Mr. HUMPHREYS. That is my recollection. It may have been a larger amount. I want to call your attention to another appropriation. We are appropriating in this Territory for our National Guard the sum of \$20,000.

Senator MITCHELL. Have you an organization here?

Mr. HUMPHREYS. Oh, yes; we have had it before our annexation and ever since. The appropriation for the band was \$36,600, plus the amount which I gave a moment ago of \$20,000.

Senator BURTON. An appropriation of \$36,600 in addition to \$20,000 for the National Guard?

Mr. HUMPHREYS. For the band, \$36,600 for two years or \$18,300 for one year.

Senator FOSTER. What is the pay here of the legislature and senators?

Mr. HUMPHREYS. They get it per diem; it is very small. There is an appropriation here I want to call your attention to. I am going to leave this act here for you to look over—

Senator MITCHELL. Tell us a little about the board of public works, Judge.

Mr. HUMPHREYS. We have a superintendent of public works here; he is appointed by the governor.

Senator MITCHELL. What is his salary?

Mr. HUMPHREYS. His salary is \$4,500 a year, and an assistant at \$3,000 a year, a chief clerk at \$2,800, another at \$1,800, another at \$1,500, and, oh, yes, one at \$2,400, and another at \$1,200, stenographer at \$1,500, agent at \$600, two messengers at \$1,200, and so on; the total appropriation is \$195,429, plus \$416,156.

Senator MITCHELL. What is the \$416,156 for?

Mr. HUMPHREYS. The first amount is for salaries and pay roll, and the second is under the appropriations for departmental use. The items are specified.

Senator MITCHELL. What are the duties of this board?

Mr. HUMPHREYS. Care of the streets, roads, and highways in all the islands. Now, there is one appropriation I want to call your attention to. The salary of the secretary of the Territory, as I stated, is \$3,000, incidentals \$3,000, state entertainments and ceremonies \$3,000.

Senator MITCHELL. When was that appropriation made?

Mr. HUMPHREYS. In 1901, since we have been a Territory. He was good enough to let us have, I think, \$1,200 to spend in fireworks on the Fourth of July. The preservation of archives \$1,500, expenses of election \$7,500, printing and advertising \$900. The total amount appropriated was \$25,800, plus \$7,800 for salaries.

Senator MITCHELL. What is the rate of taxation here?

Mr. HUMPHREYS. One per cent.

Senator MITCHELL. It strikes me as being very low.

Mr. HUMPHREYS. Very low indeed.

Senator MITCHELL. Are you able to state how the account stands between receipts and expenses of the Territorial government?

Mr. HUMPHREYS. Not offhand, I am not. The secretary of state would know, probably. In conformity with the suggestions I have made, I will submit my proposed limitations, placing a limitation on the power of the governor, the period of time for which it is necessary to reside here in order to become a judge, and on the other questions.

Senator MITCHELL. Do any of the other Senators on the committee wish to ask any questions?

Senator BURTON. I would like to have some information in reference to this National Guard. Do you know whether they pay the officers of the National Guard any salary?

Mr. HUMPHREYS. They did do that prior to the annexation of the islands. I know the National Guard use a public building as clubhouse. It is an exclusive club for officers.

Senator MITCHELL. We think it is due that the attorney-general should have an opportunity to be heard; we want to hear all sides of the case and get all the information we can, and we would like to have him notified to be here also. I will ask you what you have to say as to the necessity of two judges on the island of Hawaii. There are two judges there now.

Mr. HUMPHREYS. I would say, in answer to that, that so far as the actual amount of business there one judge could easily attend to it; but the island is extremely large, and to go from Hilo to the other point—to Kailua—would entail upon a judge quite a hardship. He would have to travel a long journey on land or he would have to take a three days' water trip. I don't think there are many cases, but there is always to be considered the sense of security that the presence of a judge gives in a district.

Senator FOSTER. Well, does he keep his docket clear?

Mr. HUMPHREYS. I think so.

Senator MITCHELL. You may be excused now, but we may wish to call you back again.

SEPTEMBER 10, 1902.—2.30 p. m.

Hon. GEORGE D. GEAR, being first sworn by the chairman, testified as follows:

Senator MITCHELL. Please state your name, age, place of residence, and occupation.

Mr. GEAR. George D. Gear; I am 34 years of age; second judge of the circuit court of the first circuit of the Territory of Hawaii; I was born in California.

Senator MITCHELL. How long have you held the position of judge?

Mr. GEAR. I was appointed and confirmed by the Senate the 4th day of March, the day President McKinley was inaugurated, although I believe the record shows the 2d. I believe, as a matter of fact, it was the 4th day of March, 1901.

Senator MITCHELL. State what other Federal judges are associated with you in Honolulu.

Mr. GEAR. I am not a Federal judge, but there is one other judge—Judge Robinson, the third judge—and formerly Judge Humphreys, the first one.

Senator MITCHELL. The place made vacant by Judge Humphreys's resignation has not been filled?

Mr. GEAR. No, sir; not that I know of. There are two of us at present here, and the last legislature created a third judgeship, which Judge Robinson now holds. I suppose there will have to be a first judge appointed pretty soon, because our laws are peculiar in that they provide that the first judge shall do certain things—for instance, swear in officers of the court—and there is a question whether either one of the other judges has the right to do it.

Senator MITCHELL. You are thoroughly familiar with the amount and character of the business that comes before the courts here?

Mr. GEAR. Yes, sir.

Senator MITCHELL. State to the committee what force of judges are necessary to transact the business here—one, two, or three, or more.

Mr. GEAR. At the present time only one, because under the peculiar law we have here, while there are three judges, the three judges have concurred in holding that but one of them can hold the court, and since the question has come up but one of them has held the court, the other judge sitting in chambers. But one judge can do all the work that can be done at the present time.

Senator MITCHELL. No necessity, then, for more than two judges here, is there?

Mr. GEAR. Not at the present time. Our penal laws have been very severe in the punishment—they have not been changed since annexation—and under those laws one who is charged with larceny in the second degree, or one who is charged with assault and battery, or mischievous injury, and a number of other offenses, must be indicted by the grand jury and brought before the circuit court. That has created at the present time a great deal more work for the court, but that is work which can only be done by the court and not by a judge thereof, the court and jury. The result is that cases which took a few minutes to dispose of before Judge Wilcox, the police magistrate, are now brought before the grand jury and subsequently before our court, and the case where a fine of \$5, perhaps, would satisfy—where Judge Wilcox formerly would have fined them \$5 or \$10—has to be tried before our court.

Perhaps the defendant is in jail for three or four months; in a good many cases that is so; because our terms of court—we have four terms a year of twenty-four working days each—the court since my appointment, immediately after my appointment, and before my appointment—Judge Humphreys as well as I, have called special terms and extended terms, so that after I came here I held while Judge Humphreys was away. I held almost continuous session of court instead of only holding the four terms a year. That, of course, can not be remedied until the legislature meets, neither can the law in regard to only one judge holding court be remedied until that time; and it seems to me that if our legislature would amend the laws that are necessary to be amended that for all the business that comes up two judges are ample.

Senator MITCHELL. Well, if the law were not changed, if it should remain as it is, then it is enough to have a third judge, is it?

Mr. GEAR. No; certainly not. In fact we have plenty of time for vacation, because I have taken a vacation when I could not do any

work; in fact I went over to Mr. Parker's ranch the last vacation I took and the Advertiser has come out with an attack upon me. I want to state that the attitude of the Advertiser has been very hard upon me. But perhaps I will wait until you question me upon what you wish.

Senator MITCHELL. Of course we have nothing to do with the Advertiser.

Mr. GEAR. No; but you have this to do with it, in regard to the conditions down here.

Senator MITCHELL. Well, Judge, you are familiar with existing law in reference to filling of vacancies on the supreme bench of this Territory, are you?

Mr. GEAR. Yes, sir.

Senator MITCHELL. What do you say to the committee in regard to the propriety and advisability of that system being perpetuated?

Mr. GEAR. I think the system is wrong and always has been. I think not only is it wrong, but that it is contrary to the Constitution.

Senator MITCHELL. State briefly what the system is.

Mr. GEAR. The system is, Mr. Chairman, under the organic act they provided that vacancies—that the supreme court shall consist of a chief justice and two associate justices, provided, however, that a vacancy in court may be filled as required by law. Now, under our law it provides that the court, when a vacancy exists, may fill the vacancy by the appointment of an attorney at law. In the law there occurs the word "justices," where one of them is disqualified, which has inclined the court to rule that the court can fill a vacancy even though there be two vacancies; that is, one judge can call in two attorneys.

Senator MITCHELL. Members of the bar?

Mr. GEAR. Yes, sir; two attorneys who have not been sworn and who are not sworn; no provisions for swearing them.

Senator MITCHELL. When they take their seats, are they sworn or not then?

Mr. GEAR. They are not sworn. The law provides for the calling in, also, of judges from the circuit court. The judges from the circuit court have not been called in lately, since I have been on the bench, to any extent. I have sat once, and at that time an attorney sat with me, Mr. Fitch, and a few days ago a question came up which required to be considered by the supreme court. Two of the judges—Judge Frear, the chief justice, and Judge Galbraith—were absent on the mainland. Judge Perry called in two attorneys and constituted the court, although the court had adjourned until some time in the future—some time in October, I believe—and they sat as a court. That has been the system, and a system, I believe, that is contrary to law. I do not believe that an attorney should be allowed to sit as a judge who is not sworn as a judge. I think that the system is wrong.

Senator MITCHELL. Suppose a vacancy occurs by the absence of one of the three judges and the other two judges select a member of the bar to fill the vacancy, is that all that is done? Or do these judges suggest the names of this attorney to the governor and does he appoint them?

Mr. GEAR. No; they appoint him. And I will state—

Senator MITCHELL (interrupting). There is nothing in any Federal law, either general or the organic act, providing for the filling of vacancies.

Mr. GEAR. Not that I know of.

Senator MITCHELL. So that this clause in the organic act which says, in the case of a vacancy, the vacancy shall be filled as provided by law, refers to a Territorial law, does it?

Mr. GEAR. Yes, sir.

Senator MITCHELL. Well, now, is there any Territorial law that authorizes judges to fill a vacancy?

Mr. GEAR. The law that was in force up to annexation.

Senator BURTON. Which is made in force now by the enabling act.

Mr. GEAR. Yes, sir.

Senator MITCHELL. Does that authorize the judges to call in members of the bar?

Mr. GEAR. Yes, sir.

Senator MITCHELL. So they are not appointed by anybody except the judges, who select them, and they are not sworn as judges?

Mr. GEAR. Yes, sir; that is right.

Senator MITCHELL. You believe the system to be unconstitutional, do you?

Mr. GEAR. I believe it to be unconstitutional.

Senator BURTON. Why?

Mr. GEAR. Well, in the first place, the judicial power is invested by the organic act in the supreme court. The court, I believe, must consist of two of the judges at least. I believe that two of the judges constitute a quorum and may act, and I believe if two of the judges are disqualified or absent that there is no provision.

Senator MITCHELL. Now, in what cases can litigants take a case to the Supreme Court of the United States from the final decision of the supreme court of the Territory?

Mr. GEAR. That is a question that the courts have battled over. It is a question of construction of the organic act. The organic act provides that appeals shall lie from said courts and appeals lie where a Federal statute is to be construed or a treaty; otherwise the decision here is final.

Senator MITCHELL. There is no appeal, then, or writ of error from the decisions of the supreme court of the Territory of Hawaii, no matter how much is involved, unless the construction of a United States statute or a treaty is involved, or a constitutional question?

Mr. GEAR. No, sir; or a constitutional question.

Senator MITCHELL. What do you say as to the propriety of that system as applicable to this Territory or any other?

Mr. GEAR. I do not see why any exception should be made for this Territory in that respect. I think that our Territory should have the same—that litigants should have the same right of appeal from the courts here as they do in other Territories, and I know of no reason why the difference was made. I want to state this, Mr. Chairman and Senators, in regard to the peculiar position the judges of the circuit court have occupied and that I occupy now, and it is this: I was in Washington when the organic act was passed; I was there when the judges were appointed; I had interviews with President McKinley, and President McKinley appointed a part of the circuit judges from men who were opposed to our governor; that is, we have had two factions here, as you no doubt know, and the President stated it was his idea to appoint circuit judges from men who represented the other faction. Judge Humphreys was appointed, and Judge Silliman, Judge Little, and Judge Eddings on that theory. There were two other judges that were left in, Judge Kalua and Judge Hardy. President McKinley recognized that there were quite a faction here who did not

agree with Governor Dole—then president before that of the republic—and that there had been political differences, and did not want to take them all from one side.

The other side have made it as hard as possible through their morning paper here for the judges, especially in this circuit, that were appointed by the president. I was afterwards—I was appointed after Judge Silliman resigned. The fact that we were known to be against Governor Dole, as I think, made the paper attack us right and left, and attack us upon decisions—they came boldly out in their paper and accused us of being the friends of criminals, and that we have been unduly extravagant, and have wasted the courts' funds; that we have let bias and prejudice enter into our opinions and our decisions where certain persons were concerned, and almost daily they have attacked us through their papers. And they have tried to keep this up, if I may infer, from papers in Washington—from the reports that have come from there—has made it very hard for the judges. They have cartooned us, and, in fact, it was necessary in one case for the three judges in a case that was on trial—a party was indicted for mayhem; under our statutes there is no such crime, it is assault and battery—the jury brought in a verdict of mayhem, and the man had to be released under the law, and the paper came out with a cartoon showing myself as blessing the man who bit the woman's ear. It was a subject for contempt proceedings, and the editor of the paper was sent to jail for contempt of court by all three judges. Judge Robinson, as well as Judge Humphreys and myself—we have been called carpetbaggers, and even to-day in the paper I noticed the statement in the Star about the carpetbaggers.

I was here before annexation, and so was Judge Humphreys, and I have attempted in every way and in all my acts to carry out my sworn duty. The paper is filled with inuendos and statements of dishonesty in decisions, and it has gone so far as to state that the supreme court of the Hawaiian Islands will pay no attention either to the findings of fact or to the findings of a jury in the first circuit, and the paper has said, "We do not know but what this is right." In every way they have tried to degrade the circuit court and to make our position as hard as possible for us. I have extracts from the papers, which I have brought here; if you wish to see them I will show them to you. Some of them are of the most violent kind. They have charged us with having squandered the government funds, so that to-day we are without funds, although, gentlemen, the chief justice, who provides for the appropriations, has stated that his proposed amount—we should not have only one-half of what he should have asked for. They have been unable to set out any specific statements, but in these general ways have tried to belittle us in the community and to ridicule this circuit court. I state that to you, gentlemen of this commission, so that you will understand the position that we are in—that I have been in.

Senator BURTON. Does anybody seem to believe the paper?

Mr. GEAR. Well, there are certain people in the community—although a great many supporters of that paper have stated that they are against the policy.

The gentleman who appeared before you yesterday told me—Mr. Parker told me that he was down on that sort of business, and many others of the leading merchants of this city have stated that that thing has gone a great deal too far and that they do not uphold the action of the paper. They have cartooned us right along, some out-

rageous cartoons. I have always kept silent because I have not cared to answer them in any way. They have made very violent statements at times. I have them all here, which are at your service. Some of them are pretty hard.

Senator MITCHELL. I can readily appreciate and understand how disagreeable a newspaper, which desires to be unfair in its criticism and attacks, can make it for the Federal judiciary. At the same time, I do not understand that we, as a Senate committee, have any control over a newspaper or over any person who may criticise the judiciary, either rightfully or wrongfully. You have it in your power, I take it, to haul up a newspaper, or the editors of a newspaper, if they are guilty of contempt of court.

Mr. GEAR. Which we did, with the result that the next day the supreme court released the man on bail. It issued a writ of habeas corpus.

Senator MITCHELL. But you do not understand, Judge Gear, that we as a committee representing a committee of Congress, or that Congress itself can enact any legislation which will in any way, directly or indirectly, shape the course or direct the course of a newspaper?

Mr. GEAR. No; certainly, that is right.

Senator BURTON. I think what you was going to say was the question of administration. What became of the man that you sentenced?

Mr. GEAR. The case was put over forty days for argument. At that time they took it up for consideration, let him still go on his original bail, not bailing him from day to day, afterwards filed a decision affirming us. The man was sent to jail on Thursday, I think it was; they applied to Acting Governor Cooper, who, I understand, refused to discharge the man, and the next day Governor Doyle, who returned that day from the mainland, pardoned the man.

Senator MITCHELL. That is, pardoned him from the offense of contempt of court?

Mr. GEAR. Yes, sir; pardoned him. He was sentenced thirty days, which was by the three judges concurring. I did not sit alone. I thought they would charge me with bias if I did, and called in two other judges. I only state these things, gentlemen, for the purpose of informing you under what conditions those who are opposed to or have been opposed to the present governor and who thought that Colonel Parker would be the governor are subjected to.

Senator MITCHELL. Well, we are very glad to have all this, Judge. You and your associate judges think it unwise interference on the part of the governor?

Mr. GEAR. Certainly.

Senator MITCHELL. With the course of judicial proceeding?

Mr. GEAR. Yes, sir.

Senator MITCHELL. Anything else you wish to say?

Mr. GEAR. I do not know of anything else. I appear here because you asked me, Senator, and I do not appear here to air any grievances to myself, because I occupy a judicial position. I have kept out of politics since I was appointed to the bench, despite the efforts to make it appear that I am in politics, and only appear because requested.

Senator MITCHELL. Very glad to have you come and have your statements, Judge.

Q. (By Mr. HUMPHREYS) I would like to ask you also, Judge, if your appointment was not also opposed by the planting interests by

reason of your efforts to secure the release of a number of white people who were imprisoned here in the public penitentiary for having failed to comply with their sugar contracts on sugar plantations?

Mr. GEAR. Well, they gave it out that they opposed me because I knew no law; but they had used every endeavor back there to defeat me; they had another candidate that they wished to put in, and it was only after long, hard work that I was appointed. My nomination has been the only one since annexation in which there has been any fight, and has been the only nomination. When the organic act was passed they did not have time to fight the nominations because they did not know what they were going to be.

They thought that the governor was going to appoint the judges; the commission had recommended that the governor appoint the circuit court judges and that the circuit court continue as it was for life. Of course that was immediately shown to the Senators. I was there myself and charged with that as one of my missions to see that the courts were not legislated into office as they had been before annexation. I will state that I was told by friends in Washington, Senators and others, that a representative was in Washington working against me, who was the representative of the sugar interests, and it was stated that the Attorney-General had received a letter stating that one of the biggest sugar houses here had opposed my selection. There was no question in my mind but that was true, but I do not refer to the representative that they had there, as that was none of his duties—Representative Haywood; he showed me every courtesy, and stated that he was not there to interfere in anything political.

Senator FOSTER. The opposition to your appointment was not an organized effort on the part of the planters?

Mr. GEAR. Not that I know of.

Senator FOSTER. Simply an individual preference?

Mr. GEAR. Well, it was through sugar houses or a sugar house that the main work was done. I do not know of any reason why the planters should be against me. I do not know that they are, as I do not believe they are now, except I believe I was opposed by some of them. I am not worrying about that, of course; I am just answering Judge Humphreys's question. I had appeared there for a number of Gallicians here kept in jail under labor contracts. I proceeded to Washington, after annexation, to get them released. Our supreme court had held that slavery could still exist here, and when I got to San Francisco the papers took it up and made a big fight about it—the papers in San Francisco. These papers were sent down here and the next day or two days afterwards they were released from jail.

Q. (By Mr. HUMPHREYS). How long had they been in jail?

Mr. GEAR. Seven to nine months, I think.

Mr. HUMPHREYS. For not performing a contract?

Mr. GEAR. Yes; and they would have stayed in there for life, because the judgment was that they be kept there until they consented to go back to work.

Mr. HUMPHREYS. Where were they kept?

Mr. GEAR. In Oahu prison.

Mr. HUMPHREYS. Are murderers, rapers, etc., kept there?

Mr. GEAR. Yes.

Senator FOSTER. Are they kept there under bonds, or are they kept there for the term?

Mr. GEAR. Well, they are kept there under the judgment of the court that until they consent to go back to work, but the plantation

has to pay for their board—for their food—at 50 cents per day, I believe. This cost the plantation, I believe, \$1,200 or \$1,400, and I understand it was because of that was one reason for the opposition of certain sugar men to me.

Senator BURTON. When was that?

Mr. GEAR. That was after annexation; after the organic act was passed.

Senator BURTON. Can you furnish the commission the decision of the supreme court that referred to?

Mr. GEAR. Yes, sir.

Senator BURTON. What I want is a copy of the decision.

Mr. GEAR. I will supply you with that decision; that was the result of the holding of the court.

Senator BURTON. I suggest that you put it in the shape of a communication to the commission.

Mr. GEAR. Yes, I will do it.

CLARENCE W. DE KNIGHT, attorney and counselor at law, of Washington, D. C., appeared before the committee in the following matter:

Mr. CHAIRMAN: I appear as counsel for, and desire at this time to present the claim and petition of Liliuokalani, late Queen of Hawaii.

Deeming it expedient that, among other things, the examination of such witnesses as may be necessarily called in support of the claim or in verification of the allegations of the petition, shall be conducted, in whole or in part, by one more familiar with local conditions and usages, and the chronological order of the facts to be presented, I have, for the purposes of the present hearing, associated Mr. A. S. Humphreys with me as associate counsel within the Territory of Hawaii, and have requested him to present the petition which, with permission of your committee, he will now read.

Senator MITCHELL. Judge Humphreys, we will hear you.

Mr. HUMPHREYS. Mr. Chairman, and Senators, we have the honor to present to the subcommittee a petition by Liliuokalani K. Dominis, in and by which petition she alleges title to the crown lands of Hawaii, which crown lands are considered a part of the public domain of the United States within the Territory of Hawaii.

The petition briefly recites her claim to relief at the hands of the United States, by reason of her deprivation of the lands in question and of the rents, issues, and profits arising thereout since the overthrow of the monarchy on the 17th day of January, 1893. We have prepared for the petitioner her claim in duplicate for the convenience of the members of the committee. We also present, Mr. Chairman, a request, to be signed by the chairman of this committee, if he deems it proper, addressed to the secretary of this Territory and the commissioner of public lands of the Territory, calling upon them to produce certain data which we deem essential, pertinent, necessary, material, and relevant to a better understanding of the subject-matter of the petition in question.

Senator BURTON. I wish you would read the petition and this request you speak of.

Senator MITCHELL. Yes; please read the petition and request.

(Associate counsel reads petition and request:)

Senator MITCHELL. We will consider these communications.

Mr. HUMPHREYS. If the committee, Mr. Chairman, after considering the request just made, arrive at the conclusion that it can be properly granted, after the data has been supplied by the parties who

are requested to supply it, we would like to have a day set for the hearing of the subject-matter of this petition, so that we may present evidence and be heard in argument thereupon.

Senator BURTON. How long will it take you to present argument and evidence, in your opinion, Judge?

Mr. HUMPHREYS. The argument may possibly take two days.

Senator BURTON. The evidence and argument, you mean?

Mr. HUMPHREYS. We will say the evidence and argument. We had thought that the argument alone would take two days. It is almost impossible to say in a matter of this sort how long it will take to present it and to argue it, because it unfolds, it amplifies as we go into it, and ramifies; questions which have not suggested themselves to me may be suggested to me by answers given by witnesses on the stand and by documents which we will secure from the secretary of the Territory.

Senator MITCHELL. This call which is made will necessarily require much time, will it not, on the part of the secretary and the commissioner furnishing the documents called for.

Mr. HUMPHREYS. I think they could be furnished in thirty-six hours. I do not mean to say that copies of the correspondence requested between the officers of the provisional government and the republic of Hawaii and those representing it at the city of Washington during the period of time mentioned in the request could be made in thirty-six hours, but I think the original could be gotten together and presented to the committee, in compliance with the request, in thirty-six hours. The originals are, of course, the property of the United States. The Territory of Hawaii, as a Territory, I take it, has no public property, for all the emoluments of title of this Territory belong to the United States under the terms of cession, and the original correspondence could be filed with the committee and they could be withdrawn by the secretary of the Territory and other officials when copies are made. In the first instance, the originals would be presented to expedite matters.

Senator MITCHELL. I notice this memorial states that the land belongs to the Queen in fee.

Mr. HUMPHREYS. That is the position we take and one that we believe, sir, to be well founded.

Senator MITCHELL. The lands, then, upon her death would pass to her heirs?

Mr. HUMPHREYS. We understand that under the law of Hawaii, as it existed at the time of her deposition referred to in the petition, she was authorized to dispose of the crown lands in question, and we believe that the power of disposition under the better considered authorities carries with it the fee.

Senator MITCHELL. We will take the papers and investigate and determine later.

Mr. DE KNIGHT. Both for myself and my associate I desire to thank the committee.

SEPTEMBER 11, 1902.

Senator MITCHELL. To-day was assigned for the hearing of the respective parties interested in the Ditch Enterprise in the island of Hawaii, supplementary to what has already been said at Washington before the full committee. I do not know what the representatives of these respective companies desire, but you can proceed in your own way for the present and we will hear what you have to say.

Senator THURSTON. Perhaps it would be as well for me to make a

short preliminary statement. As you are aware, there is a bill pending in the Senate and before your committee granting to a certain corporation the right, which is practically the exclusive right, because of the fact that only one ditch can be constructed and maintained in the same district in the designated territory.

Senator MITCHELL. Do you refer to House bill 11997?

A. Yes; that is the bill. And to this bill my clients make objection—to the passage of it. They take exception.

Senator MITCHELL. Please state, in that connection, who your clients are.

A. My clients are represented by Mr. Arthur C. Gehr, and he can state, when he comes before the committee, as to who his associates are.

Now, to clear the situation somewhat, I think it well to state in advance that from the very beginning the people I represent have not desired to enter into any controversy before the Congress of the United States as to which of the two rival interests is best entitled to a franchise of this character. We have not believed that the Congress is the proper forum in which to air or try out and determine the question as to which is the preferable party to have to construct this ditch—irrigation ditch. We have believed, and we believe now, that under the legislation of Congress an ample authority is vested in the Territorial officers to deal with this problem in the same manner as they deal with all other land problems and with similar cases of applications for rights and franchises.

The matter originally commenced, started, as I think your committee will ultimately find, when Mr. Gehr came over to the islands, or, being in the islands perhaps, made arrangements for the necessary funds, and entered the field, went into the island of Hawaii and spent thousands of dollars, the precise amount of which I think he will state to you, in making a practical preliminary survey for the purpose of ascertaining the amount of rainfall, and whether that could be secured and held in reservoirs and otherwise and distributed through ditches to land that was in need of irrigation.

Some time after his party was in the field, composed of a very competent engineer of high standing in his profession and his assistant, other interests thought there was an opportunity to enter as competitors for this right, and a controversy arose before the Territorial officers as to which of these two parties, if to either, a franchise should be given. It occasioned considerable public discussion. Various people took different sides in the controversy. The result, however, was that the parties ultimately came together and reached an agreement by which they settled all their differences, and it was agreed that Mr. Gehr's proposition was to be the only proposition submitted to the Territorial board, consisting of the governor and some of the other officers.

While that proposition was pending and after the proposed conditions had been amended by the Territorial officers by the insertion of many clauses to protect the Territory and the people, to secure more just terms from the parties, and when it was supposed that the Territorial officers were about to act, and act favorably, upon the franchise as amended by them, a communication was received from the Secretary of the Interior, written by Mr. Ryan, the Assistant Secretary, in which was cited another case of a similar kind in which it was held by Mr. Ryan that there was no authority under the laws of the Territory, as amended and modified by the acts of Congress, to grant a

license or franchise of this character. At that time I think you will find that the parties verbally agreed that they would go to Washington and endeavor to secure a reconsideration of that opinion, believing as they did, on the advice of counsel, that that decision had been too hastily arrived at, without consideration and examination of all the laws that ought to have been considered, and Mr. Gehr proceeded to Washington, where he retained me to act for him in the Interior Department. At that time Mr. Gehr, as I think you will find from this hearing, had every reason to believe and did believe that his arrangements still held with the adverse parties that if they could secure a reconsideration of the opinion of the Secretary, or, failing in that, if they could secure general legislation from the Congress of the United States granting the necessary power to the Territorial officials, that they would proceed as per their agreement and under their former arrangement to go ahead with this project, secure their license, and construct the ditch.

Mr. Gehr, acting on that supposition and in good faith, applied to me. I went to the Secretary of the Interior, and, on the presentation of a petition, I secured a reference of the whole question to the Assistant Attorney-General of that Department. Judge Van Devanter, the Assistant Attorney-General, called in with him three other assistants, law officers, and they had a hearing, and the law question was discussed, and as a result of which an opinion was rendered, and a very able opinion I think, conclusive of the power of the Territorial authorities, and one with which I think any good lawyer will agree, and the former decision of the Department of the Interior was thereby reversed; and I believe that a comparison of the two decisions will convince this committee that the first one was hastily and inadvertently rendered, and that the final opinion of Judge Van Devanter's court states the law applicable to the situation.

In the meantime the other parties secured the introduction in both Houses of Congress of bills similar in character, one of which is the House bill that you have referred to. Thereupon we took such steps as your committee is aware of to bring our objections to the passage of such a bill of this special character by the Congress to the attention of the committees of the House and the committees of the Senate. Many statements were made in Washington before your committee, where the parties were but few, and most of those who had knowledge and could have made statements were in the islands. Very much of what was presented to your committee was mere hearsay and statements of opinion as to what other people thought and believed and would do, and therefore we have considered that it would be advisable for your committee, with this bill before you, to hear some further statements here.

You will remember that it was insinuated before your committee, and in fact I do not think I overstate the matter when I say it was openly charged before your committee that the reason the other parties were not satisfied to proceed under the existing law, or to proceed under any general act of the legislature conferring power upon the Territorial officials, was that the governor and his council were so far prejudiced and committed to the one side of this proposition that the other side would not have a fair opportunity and could not secure an equal standing in the presentation of their proposition for this ditch license or franchise. We believe, and I think if your committee will take the statements of the Territorial officers you will find that there has never been any prejudice in favor of my clients in

the governor's council; that the only object and aim of these Territorial officers in the matter has been to secure the most favorable terms for the Territory possible; they have never committed themselves to either side; that they have never acted; that they have no promises outstanding of any action, and that if this matter comes before them under the present general law or under any general provision that Congress may see fit to enact, that these Territorial officials stand ready in this matter as in all others to give patient, careful hearing and consideration to propositions of all parties who wish to enter into competition for this ditch, and that their ultimate action will only be guided by their earnest desire to subserve the public welfare.

Now, as I said, we have never attempted and do not now ask to take up and have determined by your committee or by the Congress of the United States the relative claims of the propositions of these two opposing parties. What we do say is, that the law in regard to granting a right to construct an irrigation ditch in the islands of this group should be a general law applicable to all parties alike, prejudicial to none, in order that the people of the Territory may have a chance to consider and determine for themselves what is the fairest and most favorable proposition that anybody who desires to apply can present.

We do not object, if Congress should determine it were the better plan, that a general law may be enacted whereby the Interior Department at Washington or any other branch of the Government may pass upon and determine questions of this sort, but we do urge and insist that it is not wise, that it is not fair, that it is not in accordance with the general policy of the General Government in its legislative matters to have special legislation of this character or of any similar character applied for through Congress and enacted, as it may be enacted through the judgment of committees of the two Houses composed of members who are distant from the scene of action, based entirely upon—based very largely as they must be in all instances on ex parte statements, and without the opportunity to determine as local officials could determine, or as a department could determine through its investigating officers, as to what would be for the best interests of the people of this Territory.

I have one other suggestion. My clients, from the time they entered into their agreement with the opposing parties, have proceeded in good faith and upon the understanding that they had come together and the agreement would operate, and that only organization for the securing of this license and the construction of the ditch upon the terms amply agreed upon was necessary. So far as my clients are concerned, they have never taken any action on any other theory. They have never attempted in any way to get back of the agreement they entered into; that they never sought to secure any action from the Department at Washington, or from the Congress of the United States, that would give them any advantage over other parties, or that would militate against the honest and faithful carrying out of the agreement they entered into. And they are prepared to do it, to stand by their agreement, and are prepared to carry it out by asking from the Territorial council a grant for the construction of this ditch that will be in accordance with the terms they entered into just before the first decision of Secretary Ryan was received.

Now they are further prepared, as I think Mr. Gehr will convince you, with the necessary capital, not less than \$25,000, which they are

ready to invest, and it will take about that sum in a thorough survey and laying out of the plan for their reservoirs and their ditches. They are ready to take their chances on the investment on this amount of money and to spend it as speedily as may be in all the preliminary work necessary to enable them to then proceed with the actual construction of the reservoirs and ditches.

They are ready to take the chances on the fairness of their proposition and application with the Territorial officers of this Territory, and the field is open for competition from all parties. The governor and his council have expressed themselves as being not only willing but anxious to have all parties who desire to enter into competition for the construction of this irrigation plant to submit what they propose to do, and their only disposition is to do what is best for the interests of the Territory. In view of this I do not believe this committee would proceed any great length to try out the petty troubles and differences between the two parties seeking to engage in this enterprise. I believe that if you took any testimony at all as to what the people of this Territory desire, that it should be based, not on the question as to whether they are persons of one side or the other, or whether they are individually favorable to one side or the other, but their views should be taken as to whether or not it is the desire of the people of this Territory to have matters of this kind passed through Congress by special bills at a distance from their homes, where they can be at best poorly represented, or whether it is their desire to proceed under the present existing general law or under some general supervision, if you find it important to enact one, at their own homes and in their own Territory, through their own authorities to handle this matter as they handle all other matters and all other affairs connected with the distribution of the public lands of this Territory. And it is upon that theory that we ask the consideration of your committee.

One other thing. We would not care to present a single statement before this committee here, in addition to what we produced in Washington, were it not for the fact that so many statements were there made upon their side and made part of your final record as to what this man or that man and this official and the other official might, would, or could do here in the Territory of Hawaii. Many statements were there made which, owing to the absence of witnesses and the long distance from their homes, could not—the testimony could not be secured to set these statements of the adverse parties straight.

And with that outline of the situation, as viewed from our standpoint, we are ready to proceed in the matter as the committee may wish.

Senator MITCHELL. The parties you represent have taken no action since the beginning of Congress?

Senator THURSTON. We have taken no action of any kind whatever, and are living up, not to any agreement, but to the sort of general sentiment that was expressed in Congress, that no action should be taken and no attempt to secure advantage.

Senator BURTON. Senator, I should like to ask you a question, if agreeable to the other members. Are the parties that you represent—I want this addressed to both sides—willing that the amendment that is pending before our committee, with certain modifications, shall be enacted into law, creating a general law for the Territory of Hawaii respecting the construction of a ditch or a railroad that we have in the United States?

Senator THURSTON. My parties, as I understand, are entirely will-

ing to take their chances under any general legislation that you may enact that will give all parties desiring to engage in this enterprise, one as fair a chance as the other.

Senator BURTON. Well, you know the law of the mainland; that is, that anybody can build a ditch anywhere he pleases.

Senator THURSTON. I understand the law of the mainland that you mention, but I think your committee—and I say this on my own examination of the situation to some extent, that is, what I have heard from others—I think your committee will find that in regard to the public lands and their disposition and usage, and especially in regard to these water rights and privileges, that you will have to enact some modified code of laws from that prevailing on the mainland, for the reason that, in most instances in this Territory, and it has been a circumscribed area, that the construction of one ditch would really be taking over all of the irrigation opportunity and what is relatively a very large area of country.

Senator BURTON. That is so everywhere, is it not?

Senator THURSTON. Well, it is very different on the mainland, where all our Western resources are open and vast tracts are open for irrigation schemes; where parties, if they don't get one location, can readily get another equally good.

Senator BURTON. But the principle is the same. Then, as I understand you, is it your idea that a general law should be enacted under which a canal can be built?

Senator THURSTON. No. We are entirely willing, as far as we are concerned, to take our chances under any general law you may enact. I was merely suggesting, on my own part—a mere suggestion to the committee—that I think you would be obliged to look at this situation somewhat differently from that of the mainland, and that your legislation would necessarily be somewhat different, but I am not suggesting any particular line of general legislation on that subject. It is a matter for this committee.

Senator BURTON. Let me illustrate what I mean, Senator, so that we can start out with a better understanding. If we should pass a general bill like that we have on the mainland, and if the parties you wanted—that you represent wanted—to build that canal, all they would have to do is to go on with their canal and their surveys for which their notes and maps would be sent to the Secretary of the Interior, and, without waiting to hear from him at all, go right on with their construction; and if the parties on the other side wanted to go and build a canal they can go and do the same thing. Would it not—wouldn't a general law of that kind relieve the situation entirely, so far that neither the authorities here nor the authorities at Washington, nor the authorities anywhere, should have any say so about where the canal should be built?

Senator THURSTON. I would suggest about that, and what would appeal to me—I don't know what my clients think about it—it has been my own thought and consideration, it is this: As I say, the area for irrigation plants is very limited. I am afraid that a general law of that kind would immediately set different parties to work in the same field, covering the same ground, and that would bring on trouble for possession that would be very serious before it was terminated.

Senator BURTON. Just like we had in the Arkansas Valley when we started to build our Arkansas ditch. There were other parties starting to build right under us, and other parties started to build right over us. The result is now that every drop of the Arkansas River is

appropriated. We have thousands of acres appropriated, but there are millions of acres that can't be covered with water. It is the same here. It was the survival of the fittest.

Senator THURSTON. Or the fightest.

Senator BURTON. Would it not be better to turn these people loose the same way?

Senator THURSTON. I should think—my views also take me into the United States in many instances—I should think that it would be a wiser policy, where the water supply is limited so that it can by no possibility be advantageously used for the interests of the people through more than one irrigation scheme, that the power should be given somewhere to regulate the whole matter, before the parties could proceed.

Senator BURTON. When we started to build our ditch in Montana over public lands every foot of the way, suppose we would have had to have gone to the local authorities in Montana for the right of way or franchise, what condition would we have been in?

Senator THURSTON. I would not say for right of way.

Senator BURTON. That is all this is, isn't it?

Senator THURSTON. I think it would be entirely proper to grant the right of way over public lands of this Territory to any irrigation enterprise.

Senator BURTON. Under a general law?

Senator THURSTON. Under a general law that was properly set on foot. I merely make the suggestion. I should think it would be wise to give the limited situation, such as there is here, a little more care than we have the water question in the United States.

Senator BURTON. Well, pardon me for interrupting.

Senator THURSTON. Certainly; I am very glad to have you.

Senator MITCHELL. I suppose, then, we will hear from Mr. Gehr.

Senator THURSTON. I should like to have Mr. Gehr make some supplementary statements.

Senator BURTON. Do the other side want to reserve their statement and make it later?

Mr. McCLANAHAN. We will make it later.

ARTHUR C. GEHR called and sworn.

Mr. GEHR. My residence is the Territory of Hawaii.

Senator MITCHELL. How long have you lived here?

Mr. GEHR. About a year and a half. I shall endeavor to make my statement to the committee as brief as possible. My age is 39. In view of the fact, however, that I was in Washington last spring and that I took up very little time of the committee and made my statements very briefly in the committee room and not to the individual Senators, I am going to ask for a little more latitude than ordinarily I would ask for in the hearing of this case.

Senator MITCHELL. Proceed and take such time as you need, but make it as brief as you can, stating in the first instance, if you will, whom you represent, whether it is a corporation, company, or what.

Mr. GEHR. At the present time it is not a corporation, simply an association. When I first came here there were interested Mr. William Vawter, the best engineer of Chicago, Col. J. W. Jones, and my brother. Since then others have become interested in furnishing additional funds, and there are quite a number of others in Chicago, New York, and Washington who will become interested in the future,

who have become interested in financing the plans. It is our intention, if the license should issue, to incorporate in accordance with the suggestion of the governor and his council last year.

Shortly after the last meeting of the committee in Washington I was talking with Senator Mallory, and I made the statement that I had made the agreement with Colonel Parker to combine our forces and build this ditch together. Senator Mallory asked me why, then, that matter did not appear on the record before the committee.

Inasmuch as that statement appears in at least half a dozen places, I am convinced that the Senator had either forgotten what was said in person at the meetings or else had not heard the statement made. Most of my statements were submitted in writing. I am going to ask permission to mention a number of matters which otherwise I should simply ask you gentlemen to consider from the record. I shall ask that my statement shall stand as facts, excepting in so far as they may be contradicted by the opposition. That will be done in order to save the time of the committee, so that I may not have to take up your time to bring witnesses here to prove those statements. In so far as my statements are contradicted I shall ask to have called here by the commission men in Honolulu who are familiar with the matters and can testify whether my statements are correct or incorrect.

Senator MITCHELL. Are the gentlemen you refer to here?

Mr. GEHR. Most of them are in Honolulu. One or two are on the island of Hawaii, whom you will meet later.

In the latter part of August of this year, after the party under my charge had completed its survey on the Kohala Mountains, Colonel Parker, who was an applicant before the governor for the same right, asked for a hearing with us, with the idea of coming together and doing this work. The invitation came from Colonel Parker. I met him for the first time about the 14th of August upon the dock at Mahukona, on the island of Hawaii. I was there at that time with Mr. Marston Campbell, the government engineer for the Territory of Hawaii, who had been instructed to go over our work and report to the governor here upon our plans.

When the matter was before the council some time prior to that, I think to be exact on the 8th day of July, at a meeting at which Mr. McCrosson was present before he went to the States, the Parker combination was requested to submit maps of work done in the mountains in order to corroborate statements of work done, so that the governor might examine their maps and pass upon the applications. Over a month passed and no maps were filed by Mr. Parker or those representing him, except a preliminary sketch, filed July 8, which contained no specifications. We filed with the governor our maps. As no further maps were presented our plans were then ordered investigated. I returned from Hawaii about the 20th day of August and Colonel Parker came up by the next steamer. We met in Honolulu, Colonel Parker, Colonel Jones, my brother, Mr. H. B. Gehr, and myself. In a very few moments it was determined at the meeting—we met at what is called the Bungalow, the headquarters of the militia—in a very few moments it was determined that it would be advisable for us to combine our forces. Mr. Parker then stated, and we learned for the first time that others were interested in his application. He named as his coworkers, Mr. Ballou and Mr. McClanahan, who are attorneys in Honolulu, and Mr. McCrosson. He stated that he had a contract in writing with these gentlemen.

I wish Mr. McClanahan to present certain papers of which I shall

speaking later, including the contract between Colonel Parker, Mr. Ballou and Mr. McClanahan, and Mr. McCrosson. Mr. McClanahan has said that he did not quite see how we—why we were entitled to them. I shall ask him to present this contract in order to determine whether there was sufficient power among those present to make an agreement with me. Colonel Parker had a one-third interest, Mr. Ballou and Mr. McClanahan had a one-third interest between them, and Mr. McCrosson had a one-third interest. I say that coalition was made with authority.

Mr. MCCLANAHAN. Excuse me, what coalition do you refer to made with authority?

Mr. GEHR. The coalition between Samuel Parker, Mr. McCrosson, Mr. Ballou, and yourself with our people.

The next day—Sunday—we again met at the Bungalow, there being present, also, Mr. McClanahan. We discussed the matter, and still the opinion seemed to be increased that it would be well to work together, but we were unable to arrive upon an exact understanding as to the terms. Mr. McClanahan desired to consider, and the statement was then made by Mr. McClanahan that we alone knew what the rights of Colonel Parker were so far as this water was concerned. We had been in there and investigated with our engineers, and that they did not know, and we were requested to suggest a basis upon which we should come together. Colonel Jones stated in the presence of all of us that the purpose of the meeting was to discuss this question, having come from Colonel Parker, and that it was not proper that we should make that statement or terms. However, as Colonel Parker was unable to say what his right there was worth, we did not make a proposition, but simply as a basis for consultation it was suggested that we combine upon a basis of half and half. That was considered by Mr. McClanahan as giving too much to us. The matter was under consideration for about ten days, at the expiration of which time I was informed, though not directly by Mr. McClanahan, that they would decline to come together. We thereupon announced that we would go before the council and press our request for the license. We met—Colonel Jones, my brother, and I—met Colonel Parker. They asked for another conference Saturday afternoon. It was arranged that we should again meet at the Bungalow with Mr. Ballou and Mr. McClanahan. We went to the Bungalow and were requested to go to the office of Mr. Ballou. My brother and I then went to this office. The matter was thoroughly discussed at this meeting, and we did not break up until midnight Saturday night, when it was determined that we would combine. The question of control was not settled. We demanded absolute control, for reasons it is not necessary to state. Finally, as we insisted upon it, Colonel Parker and Mr. Ballou and Mr. McClanahan yielded, and it was agreed that we should have control of 51 per cent of the stock and the right to subscribe for 55 per cent of the combine's stock in whatever form it should finally be issued. There was no time that night to reduce that to writing, but early in the week—it was either Monday or Tuesday morning—the first meeting of the executive council took place. After that meeting we went before the committee.

Senator BURTON. Just who was present at that meeting that night?

Mr. GEHR. Colonel Parker, my brother, Mr. H. P. Gehr, Mr. Ballou, Mr. McClanahan, and Colonel Parker.

Senator BURTON. You mean Colonel Jones?

Mr. GEHR. Colonel Jones and myself. At the meeting of the next—

next meeting of the executive council there were present Governor Dole, Mr. E. S. Boyd, Mr. J. H. Boyd, the commissioner of public works; Mr. Wright, the treasurer of the Territory; Mr. Hawes, secretary to the governor; Colonel Parker, Mr. Ballou, Colonel Jones, my brother, and I. There may have been one or two others present; I am not certain whether E. P. Dole, the attorney-general, was there or not. Those persons were present, however. It was the expectation that that morning there would be a contest for this license, but before any proceedings were taken Mr. Ballou himself announced that the Parker interests and the Jones interests had decided to come together and build this ditch together. Mr. Ballou then, on behalf of Colonel Parker, asked permission to withdraw the application for the license, which had previously been filed by Colonel Parker, in favor of the Jones license, and in response to a question put by the governor, Mr. Ballou stated that Colonel Parker would make no further application for that privilege. Governor Dole asked Mr. Ballou if the combination had been entirely completed and Mr. Ballou said that we had agreed to combine, but that some of the little details had not been reduced to writing yet, but the matter was so far advanced that he still wished to withdraw the Colonel's application. If that statement is denied I shall call upon the gentlemen named to corroborate my statement.

Senator MITCHELL. When was this thing discussed, in August of this year?

Mr. GEHR. This was in about the 1st of September, 1901. During the next ten days or two weeks there were almost daily conferences at the governor's office, at which were present at various times all of us. We were discussing the different terms, the form of our application, of which I have here a copy, was considered by the council.

Senator BURTON. Will you furnish a copy of that to the stenographer?

Mr. GEHR. Yes, sir; the copy of our original application. [Received and marked Exhibit A.] There were a number of amendments required by the governor and his council, to all of which, with a few exceptions, we agreed. There were some proposed requirements of the governor to which we could not accede for the simple reason that it would be impossible to build the ditch with them in. After some consideration by the governor and his council they were stricken out. There was then at these various meetings—we were all working together in harmony. Representing Colonel Parker, Mr. Ballou would be there sometimes and sometimes Mr. McClanahan. Sometimes representing us would be Mr. Robertson, an attorney, who was representing us here at that time. Finally about the 15th of September the terms of the license were agreed upon down to the smallest detail, and the governor was about to issue the license, as we think, having said it would be a good thing for the Territory, and he thought the terms of the license were favorable. The matter was then mentioned by the governor in Honolulu.

Senator BURTON. That proposed license as finally agreed upon and perfected, but not yet acted upon or granted, was submitted by you to this committee in Washington? The one as finally perfected? It appears in your record, if you can turn to the page.

Mr. GEHR. The fact that this license was about to be issued about the 15th of September was mentioned in Honolulu, and two or three of the gentlemen who heard the statement made by the governor that the license would issue, fearing that their interests might not have

been properly protected, appeared and started some discussion at the next meeting of the council. Quite a number of the men from Honolulu appeared before the council and opposed the issuance of the license. Some of the gentlemen present asked that other restrictions be put in our license. One of them was that we should not be allowed to own lands, engage in agriculture in the district, the idea being that to take this water and put it in on our own lands would deprive them of water to which they were probably entitled. We assented to them among others. The license was then prepared and copied. It appears on page 50 of the compilation of the hearings before the Committee on Pacific Islands and Porto Rico. There is no doubt here. It appears in this record on page 50.

Colonel Parker was personally present during this opposition before the council, and the opposition was against Colonel Parker as well as against our application. I shall call upon the citizens who were there that day if my statements are denied, that Colonel Parker was there urging and insisting, and Mr. Ballou was there urging and insisting that this license be granted to J. W. Jones. It has been denied by the opposition that there ever was an agreement between Colonel Parker and our interests. I go into this matter at length on account of the great importance of proving this matter that there was this agreement.

That agreement while this discussion was going on was subsequently reduced to writing. We had a large number of conferences at which were present at various times Mr. Ballou, Mr. McClanahan, Colonel Parker, together with our people, and this agreement was finally reduced to writing after all of the terms had been approved by all of us. It was then signed by Colonel Jones, Mr. Sidney Miller Ballou, by my brother and by myself, and Mr. Ballou was to have Colonel Parker sign it. This was signed by us on the 17th of September, 1901. Colonel Parker was to leave for the States the next morning, and Mr. Ballou agreed to take the contract to him and have him attach his signature to it. Colonel Parker the next morning was very busy, and he went to the States leaving the matter to be handled by Mr. Wundenburg, having stated that if the paper contained the agreements that we had made that he would sign it; that he had made an error when upon the advice, I don't know whether Mr. Ballou or Mr. McClanahan represented him as attorneys, but he had been advised by one of the members of that firm, and had executed an option for the purchase of certain water upon this water shed, from Elizabeth K. Booth and Walter H. Booth. When we were discussing this we entered considerable objection to this. Inasmuch as he had signed the paper which was over much opposed to his interests, he then desired to have his friend examine this other paper in order to see that there was nothing there to which he would not agree.

Senator MITCHELL. To whom did he make these statements?

Mr. GEHR. He made them to me for one. I think also to Colonel Jones.

Mr. McCLANAHAN. What statement do you refer to as having been made to you?

Mr. GEHR. I am referring to the statement that Colonel made that have executed this option with Booth, which tied up his property for an indefinite period and allowed Mr. Booth to renew it at his option, and which, instead of having been an option to purchase, the fee, as stated by Mr. McCrosson, in Washington, according to the record, is merely an option for the term of one year, the option being dated

May 8, 1901, for the term of one year but until the expiration of sixty days from the service of notice of our intention to determine same, the word "our," according to the context, referring to Mr. and Mrs. Booth, and the amount paid was agreed to be too large, although Colonel Parker had agreed to do it. And further on in the option it is provided that—

Mr. McCLANAHAN. Are you still making the statement that Colonel Parker made to you?

Mr. GEHR. No; I am merely—

Senator MITCHELL. You stated a moment ago inasmuch as Colonel Parker had signed a paper which he found was not just what he thought it was, that therefore he desired to be careful in signing his other agreement; to have somebody—his attorney—examine it. Is that it?

Mr. GEHR. Yes, sir.

Senator MITCHELL. To whom did Colonel Parker make that statement?

Mr. GEHR. He made that statement to me, and I think also to Colonel Jones, that if the paper which Mr. Ballou presented contained the conditions upon which we had agreed he would sign.

Senator BURTON. Were all these agreements put in at Washington?

Mr. GEHR. They were not. I wish to put both of them in the record now.

Senator MITCHELL. Let them be accepted and marked B and C.

Mr. GEHR. The first is signed by Mr. Jones, two Mr. Gehrs, and Mr. Ballou.

Mr. McCLANAHAN. What person did Mr. Parker refer to when he said he would have his attorneys sign it?

Mr. GEHR. He mentioned no name, but the next day we were approached by Mr. Wundenburg, who informed us that he had Colonel Parker's power of attorney. Mr. Wundenburg, during the next ten days, did act for Colonel Parker.

Mr. McCLANAHAN. Did he sign the agreement?

Mr. GEHR. No.

Senator MITCHELL. Why did he not sign it?

Mr. GEHR. I won't state, because it is information and belief. I won't attempt to state.

Mr. McCLANAHAN. Did you see him about signing it?

Mr. GEHR. I did.

Mr. McCLANAHAN. What did he say?

Mr. GEHR. We were working together with Mr. Wundenburg, Mr. Ballou, Mr. McClanahan, and Mr. Robertson, an attorney of Honolulu, discussing the entire question during all this time before the council, still endeavoring to have the license issued to Colonel Jones, even after Colonel Parker had left.

Senator FOSTER. Why did he decline to sign it?

Mr. GEHR. I don't know.

Senator FOSTER. In conversation, what objection did he give?

Mr. GEHR. No objection. I have never been told either by Colonel Parker or Mr. Wundenburg that they would not sign.

Mr. McCLANAHAN. Did you ask Mr. Wundenburg to sign it?

Mr. GEHR. I did.

Mr. McCLANAHAN. What did he say?

Mr. GEHR. He was to sign it as soon as we had finished. The conversation was carried on at your office.

Mr. MCCLANAHAN. Did he ever—

Mr. GEHR. This letter from Mr. Ryan came announcing that there was no authority in the Territory to issue licenses. The matter was thereupon dropped by the governor and the next morning I was informed by Colonel Jones that Mr. Wundenburg had decided not to sign the agreement.

Now, that is the statement of our relations with Colonel Parker, and I shall have to submit proofs of my statement later on of these various conversations.

This being something in the nature of a proceeding in equity, a man wants to come in here with clean hands. Colonel Parker, as the Hawaii Ditch Company, has no right to go to Congress to ask for the passage of the bill to give them these various rights.

Senator MITCHELL. Did you have a hearing before the House committee?

Mr. GEHR. We did.

Senator BURTON. Where was McCrosson all the time?

Mr. GEHR. McCrosson was in Washington attempting to obtain from the Secretary of the Interior the positive jurisdiction for the governor to issue the license.

Mr. MCCLANAHAN. Was he not there to get a reversal of Mr. Ryan's opinion?

Mr. GEHR. He was not, because Mr. Ryan's opinion was not dated until September 11.

Mr. MCCLANAHAN. He wrote a previous opinion, you remember?

Mr. GEHR. I remember that Mr. Ryan wrote only one opinion. There had been a prior letter, which appears in the record, from the Department, in which the Secretary did not hold that the Territory had no authority to act. That letter is in this record. In fact, it was simply a letter to the governor in which the application was referred to, and stated, if in your opinion you have not specific authority to issue such a license, then you would not be warranted in doing so, and that if it is your opinion that the law has not sufficient provision the Secretary asks the governor to make a recommendation to Congress in his next report asking for proper legislation if he deem it advisable.

Senator MITCHELL. That was prior to the written opinion?

Mr. GEHR. Yes; prior.

Mr. MCCLANAHAN. Is this not an opinion you have just spoken of?

Mr. GEHR. Yes. Mr. McCrosson—we didn't know it at the time that he was in the States for that work. In fact, we did not know it until the date that the Ryan decision was. Mr. Ballou informed us he had just received a letter from Mr. McCrosson giving the decision of Mr. Ryan. Colonel Parker was willing to come to each and every condition. After I went to Washington to endeavor to have that reversed, Colonel Parker went to Washington, after having called upon the planters in Kohala who signed a petition requesting Congress to pass an act granting and giving the Hawaii Ditch Company the right to construct, dig upon the Government lands of this district, ditches, flumes, and other structures for the purpose of conducting water to the said district for the purpose of supplying the inhabitants and sugar planters with water. On the 19th of November, 1901, one of the men, Mr. John Hind, of Hawi plantation, stated that they wanted water. I saw Mr. Hind two weeks ago. He said they still wanted water, and every one signed Colonel Parker's petition. Colonel Parker told him that my brother had given up the plan to take up water

there and had gone home and dropped the whole matter. Mr. Hind also told me, as did each and every one of the managers in Kohala two weeks ago, that they would be very glad to sign a petition for me. Colonel Parker, through his representative, introduced then—using that petition as a basis to give him standing in Congress—a bill.

Prior to that Colonel Parker, as I am informed, made certain statements and agreements with the planters in Kohala as to the standing which would exist between the plantations and the Hawaii Ditch Company. What these are can be proven by consulting the planters in Kohala, but from my talk two weeks ago with the managers I am firmly of the opinion that they did consent to ask that Congress should pass a bill, because they wanted a ditch. Colonel Parker introduced the bill into the House of Representatives on January 21, asking that the Hawaii Ditch Company be given this entire watershed, it being described in a manner similar to that in the proposed license but including the following phrase, "and through, over, and upon such other public lands in the districts of North and South Kohala and Hamakua as may be necessary to properly supply the consumers of water, etc." In other words, that that ditch company be allowed to dig anywhere in the districts of North and South Kohala and Hamakua and carry water to those places. The condition of the planters was that the right of way should be given to carry water to North Kohala. From my talk with the planters I am further of the opinion that they did not consent and petition that the Hawaii Ditch Company should have the right of eminent domain over all public lands for the construction of their ditch. They can ascertain the above by inquiring of the planters.

Mr. McCrosson's statement that he has the signature of every property owner through whose property the ditch should run asking that that ditch should be granted, but he asks for the right of eminent domain in his bill. I fail to find the Bishop estate or the Bishop Museum in Honakane Gulch. They own Honakane Gulch. If the water was to be carried where Mr. McCrosson states, into North Kohala, it would have to go through this land.

Senator BURTON. I would like to ask. You say that these property owners offered to give you a petition for the construction of a canal similar to what they gave Colonel Parker?

Mr. GEHR. They did two weeks ago. I stated that I had not and was not going to apply to Congress for right of way. That was not my work. This bill of the opposition has not a single condition except that they were to commence within two years and end in six—not one restriction or reservation of any nature whatsoever—this bill introduced by Colonel Parker into the House.

Senator MITCHELL. Did it pass as amended?

Mr. GEHR. It did not as amended. On the introduction of Senator Clark, of Wyoming, granting the same right, it was introduced into the Senate with identically the same terms. These bills were introduced asking for this grant without a single restriction except the two and six years, and that was after Colonel Parker and his associates and the council had consented to all of these restrictions.

With Senator Thurston I went before the subcommittee on Territories—House bill 11997. We had only a partial hearing—stopped by the chairman, who stated that, in effect, that they would not report the bill favorably—that they were unfavorable to special legislation of that character.

Senator BURTON. I don't believe I would quote it. It is all in the record.

Mr. GEHR. I only make that suggestion. He stated further that he was more favorably inclined toward the passage of a general act giving the Territory authority to act in case it were determined that the Territory at the present time did not have the authority, and with that statement we left the committee room. The hearing was very incomplete. Our case was not put before that committee to which I shall make reference now.

Senator MITCHELL. Was anything you said there published?

Mr. GEHR. I tried to get it later and found that it was not. There was a statement made before that committee to which I now wish to make reference.

Senator FOSTER. Wasn't it already in the hearings?

Senator MITCHELL. The House hearings are not published.

Mr. GEHR. Through hearsay I learn that during the winter certain statements have been made, statements alleged to have come from Mr. McCrosson and Colonel Parker—I do not know whether they were or not—which reflected upon our attitude toward the Territorial officials. Later on in the subcommittee, House Committee on Territories, Mr. McCrosson made some references. I can not give the exact words, but they were to the effect that the Territorial officials were improperly influenced by us in this matter. I arose to my feet and pointing at Mr. McCrosson across the table, I told him that that was not true, that I should call him to account there in Washington, and later in Honolulu when we had opportunity to produce proof. Mr. McCrosson then stated that he did not wish to include Governor Dole. He made no mention of the others. Throughout Mr. McCrosson's discussion, as shown on your record, there are intimations—it occurs time and again—where improprieties are practiced there in that respect.

Later, on the second day of June, Mr. Robert W. Wilcox, the Delegate from Hawaii, presented a statement to the Committee on Pacific Islands, in which he uses this language: "The objections offered by Governor Dole, as shown by the record, are vacillating, and shifting, and evasive, and unfixed. I believe them to be insincere." He also referred to Colonel Jones as one of Governor Dole's political allies. These statements have been made over and over again. I now ask this committee, on the ground of justice to myself, to investigate that charge while you have the men here who can prove it or disprove it. It came to me more forcibly later on, when Mr. Alden came to me, and Senator Foraker, with three charges:

First, that Governor Dole would not give Mr. Parker or the Hawaii Ditch Company a fair hearing on this matter.

Second, that Mr. Edward S. Boyd, the land commissioner, was so tied up with us that he would not consider Mr. Parker's application, and that Col. J. W. Jones was a government official holding five positions under salary. I was asked these questions and I replied by letter to Mr. Alden, which was brought before your committee.

I am not apologizing for Governor Dole or any officials, but in justice to me I ask that you examine deeply into that charge and prove or disprove it. If you disprove it the men who have made it are not entitled to go to Congress and ask to take any rights in the Kohala Mountains, after we have been put to an expenditure of over \$7,000 without—after we have used our time and brains, after we have lived in the mountains doing hard work, and now to have them come in there and make charges of that kind in Washington in an attempt to discredit us—if these charges are not proven, to say that Colonel Parker and the Hawaii Ditch Company has no right to come into your court without clean hands.

I wish to refer now to a few statements made on page 1 of the record published of your hearing before your committee, where Mr. McCrosson says in effect that the ditch would probably cost somewhere in the neighborhood of \$2,500,000. That is only an estimate. They have no data to make this conclusive. Later on Mr. McCrosson made an attempt to discredit us by stating that we had obtained a prior franchise from this Government, and since then had done nothing except hawking this franchise around the States. He quoted in full an interview which was published in the Hawaiian Star, I think, on the 1st day of October, in an attempt to discredit our financial standing and an attempt to bolster up their financial standing. He stated that the president of their company, Colonel Parker, was a man of large wealth, and himself was able to build the canal. I have not a word to say against Colonel Parker. That statement, I think, you will ascertain in time, is not strictly correct.

Senator MITCHELL. What was the statement?

Mr. GEHR. The statement that Colonel Parker, the president of their company, was a man of large wealth, able to build that canal.

Senator FOSTER. Well, on this particular question. These franchises that you had already secured that Mr. McCrosson speaks of, what has become of them?

Mr. GEHR. I have no interest in the railroad and never have had. I can show that the survey was made of the entire right of way at an expenditure of a large amount of money, that there was reason for many of the delays, and if the gentlemen wish to go into that question I would like to have it presented by Mr. Pogue, of the First Bank of Hilo, who could speak more dispassionately than either my brother or myself.

Senator FOSTER. What were the other franchises?

Mr. GEHR. Only one.

Senator BURTON. For the railroad?

Mr. GEHR. Yes.

Senator BURTON. Any work?

Mr. GEHR. Expensive surveys; yes, sir.

Senator BURTON. Has the charter been approved by the authorities here?

Mr. GEHR. It was issued by the authorities here, and it was afterwards ratified by the Congress of the United States and approved by the President.

Senator BURTON. Does the right of way have to be approved by the authorities here?

Mr. GEHR. Yes, sir.

Senator BURTON. Has it been done?

Mr. GEHR. I don't know.

Mr. MCCROSSON. Mr. Chairman, may I ask a question?

Senator THURSTON. I request that no request be heard from the other side until we have finished.

Mr. GEHR. I never interrupted Mr. McCrosson in Washington.

Mr. McCrosson has stated, as I am informed by the planters in Kohala, to them, and he has also stated to your committee, that they control now practically all the water on this watershed, and that we can not, should our license have been issued, that we could not furnish them the water. He claims that their company controls, for instance, the Puukapu watershed. I am informed and believe that Colonel Parker owns a half interest in the land of Puukapu, and I am informed that the other half is owned by a grandchild. If that

is correct, I fail to find that the grandchild there, through any competent authority, has approved the granting of this bill to Mr. Parker. Maybe it has been done, but I find I am unable to find it. He claims that he controls the surface waters of the valley of Waipio. Mr. W. O. Smith, one of the trustees of the estate, testified before your committee that their right there, that they had no right there unless the Bishop estate decided to sell or lease those waters, and then that Mr. Parker would have the first right to bid upon them. But I understand from the same authority that that would not prevent anyone else from bidding unless the price fixed upon it and they decided whether they would take it or not. Then they would have that right under the lease. I don't think that would be done by any man who pretends to be a business man. If the water should be sold, we should have just as much right to bid on that as Mr. Parker.

I want to refer back now to this bill before the House. After our meeting with the subcommittee of the House, some ten days or two weeks later, the bill of the House of Representatives, 11997, was introduced by Mr. Powers, of Maine, if I remember rightly, and passed the House.

In this bill there were certain restrictions, but an error, intentional or otherwise, described the act of Congress as the act of March 3, 1901. That should have been 1891. It was to be a restriction. I shall call attention to the fact that these restrictions were put in after we had entered objections. That bill was then sent up to the Senate, and is the one now before your committee. Still there are further objections. The Hawaii Ditch Company consented to a lot more restrictions, so as to bring it a little nearer to the proposed license here. Mr. McCrosson says on page 12 of this report, in describing the Hawaii Ditch Company in response to the question, "Is it a land company?"—makes the reply:

No; it is a water company. We are precluded under our articles of incorporation from holding lands other than those absolutely necessary for the business of the ditch company. We are supplying water to other people.

He says in another place that they can not own lands.

I desire to incorporate in the record a little from their articles of incorporation. These are some of the powers of this company that can not hold land—must be purely a water company:

And the acquiring, owning, taking over, assuming, holding, or selling of franchises, leases, licenses, rights, powers, privileges, grants, or concessions from public or private corporations or bodies, the Territorial or United States Governments, or individuals; to acquire and hold and deal in stocks and bonds of other corporations when such acquisition, holding, and dealing in shall be reasonably necessary or beneficial to the successful operation and business of the company, and generally to acquire, own, purchase, hold, sell, deal in, transfer, and convey absolutely or by mortgage all property, real and personal, which may fairly and reasonably be necessary or beneficial to the business of the corporation.

These are some of the powers of a company that can not control land.

Under the indorsement of the planters in Kohala, protesting against the issuance of a license to us, Colonel Parker goes to Washington and demands to gain this grant without restriction, ignoring all he had agreed to. I submit Colonel Parker has not come before your committee with clean hands.

The chairman asked this question, on page 12:

Do the various provisions you have made there meet all the suggested objections of Governor Dole as given in his testimony the other day?

And Mr. McCrosson answered:

They are intended to meet every one of them, sir, and I believe they do. If they do not, we are willing to meet them in any and every way.

The restrictions to which he assented even at the last do not include a right to have the Territorial officers determine the line of that ditch, where it shall go, in order to conform to requirements of our terms as contained in the license which was proposed to issue to us. I ask this committee to ask Governor Dole if he did not openly request of Mr. McCrosson that he would also insist upon that provision.

I wish to enter a protest again, right here, against language of this kind.

On page 14 of the report Mr. McCrosson refers to "Mr. J. W. Jones, a minor official of the Territory of Hawaii." The inference can be drawn by you better than I can make it for you. On page 12 there is a question from Senator Burton:

Right in that connection, I wish you would tell the committee your experience with Governor Dole and others just as you told it to me.

Mr. McCrosson, in a statement three-quarters of a page of print, answers with an absolutely nonresponsive answer to that question. Inasmuch as I have not been able to find out what Mr. McCrosson's experience with Governor Dole was, I can not answer that question. I should like to have it answered.

Senator Blackburn asks these questions:

Do you believe the Territorial authorities would grant you this franchise?

To which Mr. McCrosson answered—

They certainly would have to consider our rights in granting it to anybody.

Then Senator Blackburn was forced to put it this way:

Then I may just as well ask you the question in plain terms: Do you or do you not believe that the present attitude of Governor Dole toward your company would make it impossible for you to get this franchise by application before the Territorial authorities?

Mr. McCrosson replies at length on page 15, and he states, as a matter of fact, if that were referred back to the Territory of Hawaii that it would result in one of two things, either they would be held up by the opposition now before you or it would result in endless litigation. Mr. McCrosson states, on page 21, that at that meeting at the Albany Hotel there were present Governor Dole, Mr. Boyd, Mr. Gehr, Mr. McHenry, and himself, and Mr. Boyd stated that if there were no compromise between the Hawaii Ditch Company and ourselves that the Territory would put up this privilege at auction, regardless of any rights that the Hawaii Ditch Company or Mr. Parker might have in the premises.

That statement was not made in my presence. Mr. McCrosson said I was present at that meeting. I ask that Governor Dole and Mr. Boyd be questioned.

I do not wish to read all of Mr. Boyd's report. It is enough to call the attention of this committee to the statement of Edward S. Boyd before he left Washington, submitted to your committee. It appears on page 40 of this record. I ask you to consider that when trying to find out the facts as to what actually took place when the proposed license was being discussed.

On page 62 Mr. McCrosson again says he denies that Colonel

Parker ever made any agreement with Colonel Jones and myself. Then he adds:

I admit that he was forced to listen to the overtures of Mr. Gehr and Mr. J. W. Jones, and that his position was such that he had to listen to them, notwithstanding the fact that he was listening to a proposition to take his rights away from him. He was compelled to listen because of the attitude of certain Territorial officials.

Mr. McCrosson states on page 110, as he had stated elsewhere, that they had carefully investigated the source of this water supply, not once but many times, but that is not the point I wish to make. If Mr. McCrosson, of the Hawaii Ditch Company, had many times investigated all this Hawaii Ditch thing, and was thoroughly satisfied, I would like to know why this letter was written, a letter dated San Francisco, May 29, 1901, from Mr. M. M. O'Shaughnessy to Edward B. McClanahan. It will be offered in evidence. (Received and marked Exhibit D.)

I offer this to show at the time, May 29, I had been in the mountains with my engineers for weeks doing the very work which Mr. O'Shaughnessy suggests should be done by Mr. McClanahan and Mr. McCrosson. I wish to say that Mr. McCrosson misstated, or rather was misinformed when he stated, that this work had been done by Colonel Parker.

Senator FOSTER. Who handed you this letter?

Mr. GEHR. Mr. S. M. Ballou, in his office, a few weeks after I had been in the mountains. If the matter had been investigated, why should they go ahead and do this preliminary work which shows right from the very letter itself, it must have that intimation.

Senator MITCHELL. That may prove all you claim; at the same time it is possible that some engineer might have written a letter of that kind, not knowing what Mr. McCrosson had done.

Mr. GEHR. Very well.

Senator MITCHELL. It may prove all you claim. I don't know whether it does or not.

Mr. GEHR. I make this statement on the strength of information which I obtained from Mr. Ballou and Colonel Parker, that Mr. O'Shaughnessy was consulted; he was on the islands and this was done in pursuance of attempted negotiations to secure surveys of Mr. O'Shaughnessy for their own use. Mr. O'Shaughnessy in that letter states the terms on which he would consent to go to work.

Mr. McCrosson states on page 112:

Every statement made by me on behalf of the company which I represent is made of my personal knowledge, and is not based upon hearsay testimony.

Consequently he is very well informed when he stated, for instance, that they had the indorsement of every property owner. There was one statement which will be shown incorrect.

Mr. McCrosson states on page 117, referring to the land of Puukapu:

This land has been controlled for twenty-five years and is now controlled by the president of the Hawaii Ditch Company, which, through him, has certainly the right to divert the water therefrom so long as the vested rights of property holders below Puukapu are not interfered with.

Mr. McCrosson had previously stated if this right of way was granted then they would go to the Territorial officials to ask for the water. He states now they have the right to divert that water. Our contention has been right along where they simply ask for a right of way they will be getting the water with it.

Mr. McCrosson states on the last of page 119:

It must be borne in mind that Governor Dole is also a trustee of the Bishop estate: that he was prepared to grant, first to Colonel Parker and his associates and afterwards to Mr. Jones and his associates, a broader license than the Hawaii Ditch Company are now asking from Congress.

I ask you to look at the draft of the license which was accepted by Colonel Parker and compare it with the terms of their license.

I now ask Mr. McCrosson to produce before the committee the original of the contract entered into by Colonel Parker, Mr. Ballou, Mr. McClanahan, and Mr. McCrosson. Will you produce it?

Mr. MCCLANAHAN. Not unless the committee wants it. A little later it may develop it is not necessary. If they want it we will produce it. It is purely a private matter.

Mr. GEHR. I ask also that Mr. McClanahan produce the original lease of Puukapu, the lease under which they claim the right to the surface waters of Waipio, and also the original of this Booth option, in order to see whether they have or have not the right to these waters.

Mr. MCCLANAHAN. Is it denied that we have a lease of Puukapu?

Mr. GEHR. The statement has been made that you have a lease to Puukapu, and that you have the right to the water.

Mr. MCCLANAHAN. Do you deny that?

Mr. GEHR. I am not making denial or affirmation that you have the lease and waters of Waipio. You have an option of Laupahoiohi. I ask you to produce those, in order to find out if you have such a control over those waters as your company represent to have.

Senator MITCHELL. You have given notice. Leave it for them to be produced later on if we need them.

Mr. GEHR. In conclusion I make this statement in addition to the written statement, and to say that I wish to repeat every word I said in Washington. I wish to have my statement made in Washington as the balance of my statement, as being considered as under oath, and I am going to ask the committee that it ask Mr. McCrosson now to verify under oath his statements made in Washington.

Senator MITCHELL. Mr. Gehr, you are representing interests? If you are, what, if anything, do you recommend Congress should do in the premises in regard to this whole matter?

Mr. GEHR. It is rather presuming for me to recommend to this committee. I am willing to state my opinion.

Senator MITCHELL. What do you think should be done, looking to the public good and fair dealing to all parties?

Mr. GEHR. I think, in view of the careful consideration which this matter certainly has received—and I am informed other matters of a similar character have received the same care—I think the officials here have shown that they are abundantly able and willing to protect the interests of the people here. If that should be deemed inadvisable, I think that a bill very similar to that proposed to be introduced by Senator Foraker—

Senator MITCHELL. A general bill?

Mr. GEHR. A general bill, with the restrictions incorporated as in that bill.

Senator MITCHELL. Would you leave section three of that bill in? Would you?

Mr. GEHR. The bill as handed to me—I have not read it for some time.

Senator MITCHELL. That emphasizes and places the entire power in the hands of the Territorial officials.

Senator BURTON. As approved by the Secretary of the Interior.

Mr. GEHR. Yes, sir; I think that bill would meet the requirements here. I think you will find when you go down the coast of Puukapu to Hilo and examine the land and see the government maps and see the ownership, some of which is owned by corporation lower down, I think you will find, gentlemen, that a general law like that in force in the States would result in such a conflict over water rights—which would come through the gulches running from private lands to public lands—it would result in such a conflict of litigation that would be very disastrous. It is not like taking water from a flowing stream many, many miles long, running through comparatively level or rolling land in the States. This water of the islands is all from rain, none from the earth. It is very erratic; sometimes the rainfall is very heavy and sometimes very light.

Senator BURTON. Suppose we had a general law just like we have in the States, then you could go right on and build your canal?

Mr. GEHR. Yes, sir.

Senator BURTON. Then Colonel Parker could go right on and build his canal under you or above you?

Mr. GEHR. Precisely, but the litigation to prevent the building of that ditch would arise.

Senator BURTON. How could you prevent it by litigation at all? You can't stop the building of a canal.

Mr. GEHR. You are talking, in case that law were extended to the islands?

Senator BURTON. Yes, like on the mainland. You two people could go ahead and build your canal. If you could get in and build your canal, do it; and if anyone else wants to go in, let him. What is the objection to having it that way here? That is the way we have it there.

Mr. GEHR. I know something about the water of the Kohala Mountains, and I must speak plainly; so far as that is concerned, I think there would be a very good chance for very serious litigation.

Senator BURTON. You would place it in the power of the Territorial officials?

Mr. GEHR. With the approval of the Secretary of the Interior. I think you will find that the general law of the United States will not serve here.

Senator BURTON. Then you favor leaving it to the Territorial officials?

Mr. GEHR. I think I would; yes, I do. I think they have demonstrated that the matter would be properly handled. So far as I am concerned I do not know what effect it would have upon the Territory. I see no reason why there should be any objection to having a company of that kind approved by the Secretary of the Interior. I approved of the recommendation of Senator Foraker.

Senator FOSTER. You lay your claim to your prior right?

Mr. GEHR. And our positive and distinct agreement with Colonel Parker, and the work we have done, I think, entitled us to that license.

Senator THURSTON. The committee understand, however, we are asking no special legislation to confirm any of our right.

Senator MITCHELL. You are willing to take your chances in the action of the local authorities and no general provision of law?

Senator THURSTON. We are not asking a special provision.

Senator MITCHELL. Suppose you had a license, are you prepared to go on with the work?

Mr. GEHR. We are, sir. We have been ready with \$25,000 for over two years. If it had not been for that letter from Mr. Ryan, we should have been at work before November 1. In corroboration of our financial standing.

Senator MITCHELL. Now, Mr. Gehr, have you any other parties for witnesses that you desire us to hear before the procedure of the other side?

Mr. GEHR. If my statements are contradicted, I wish to.

Senator MITCHELL. No person now you wish to bring forward?

Mr. GEHR. No, sir.

Senator FOSTER. The estimate was two and a half millions; you are prepared to bring forward two and one-half millions?

Mr. GEHR. That was their statement, not mine. What we are prepared to do is that, as I have told the governor and told gentlemen in Honolulu, in case the license was issued the work will proceed. What we are prepared to do is this: We have already spent on actual work \$7,000, and we are prepared to go on with it; to survey the ditch and spend \$25,000. We have men in the States very much interested in this work. They are willing to put up money if our work demonstrates the correctness of the purpose stated by us when we came from the mountains last summer.

Senator MITCHELL. I think, as one member of the committee, the other parties should have the right to cross-examine you, with the same privilege accorded to you when they come to the stand. Do you wish to cross-examine the witness, Mr. McClanahan?

Mr. MCCLANAHAN. Yes.

The committee adjourned until 2 o'clock.

Cross-examination:

Mr. MCCLANAHAN. Mr. Gehr, what did you state your business to be?

Mr. GEHR. Engaged in nothing at present except irrigation work at Kohala.

Mr. MCCLANAHAN. What has been your business since you have been in the islands?

Mr. GEHR. That alone.

Mr. MCCLANAHAN. What brought you to the islands?

Mr. GEHR. To make a survey for the purpose of constructing a ditch in the Kohala Mountains.

Mr. MCCLANAHAN. Didn't you first come here in reference to promoting a railroad scheme on the island of Hawaii?

Mr. GEHR. I did not.

Mr. MCCLANAHAN. Didn't you state to Mr. McCrosson that you did at the Congressional Hotel?

Mr. GEHR. I did not.

Mr. MCCLANAHAN. Have you had anything to do with that railroad, sir?

Mr. GEHR. Not until last winter while I was in Washington. I went to New York and Philadelphia with reference to the railroad.

Mr. MCCLANAHAN. You stated that you lived here a year and a half—it has been living here, carrying on this scheme?

Mr. GEHR. I intended to say I had been here a year and a half.

Mr. MCCLANAHAN. Your home is in Chicago?

Mr. GEHR. I announced my intention of staying here with a week of the time I arrived here a year ago last April.

Mr. MCCLANAHAN. When did this idea of developing the water of Kohala first occur to you?

Mr. GEHR. It was mentioned to me by my brother a little over two years ago.

Mr. MCCLANAHAN. What was he doing?

Mr. GEHR. He was connected with the Kohala and Hilo Railroad.

Mr. MCCLANAHAN. Surveying there?

Mr. GEHR. Yes.

Mr. MCCLANAHAN. And he learned of the scheme through his work in surveying for the railroad, of the possibilities of it?

Mr. GEHR. It might reasonably be inferred.

Mr. MCCLANAHAN. Isn't it a matter of fact?

Mr. GEHR. I might have heard of it before that; I don't know.

Mr. MCCLANAHAN. He wrote you to come on?

Mr. GEHR. No.

Mr. MCCLANAHAN. Well, how did you become interested in it?

Mr. GEHR. When he returned to Chicago he proposed it and suggested I try to obtain the capital to do this work. At first I did not take very heartily to the idea.

Mr. MCCLANAHAN. The capital to do what work?

Mr. GEHR. The work we did last year to make this survey.

Mr. MCCLANAHAN. What survey did you make?

Mr. GEHR. Brought a party of engineers to the islands especially for this work and went up into the Kohala Mountains.

Mr. MCCLANAHAN. Was that the first time you had been there?

Mr. GEHR. The first time.

Mr. MCCLANAHAN. Did that on your brother's recommendation?

Mr. GEHR. That and study of the situation.

Mr. MCCLANAHAN. Where did you have data to study except from your brother?

Mr. GEHR. I took my brother's statement as to the condition of the mountains for some weight. He told me there was water there on the large island—on the lea side of the large island. I studied in libraries in Chicago a large number of works.

Mr. MCCLANAHAN. Upon that information and data you brought out a party of engineers into this country to make this survey? Did you know anyone here at the time?

Mr. GEHR. I don't think there was any man living on the islands whom I knew personally.

Mr. MCCLANAHAN. When did you first know Colonel Jones?

Mr. GEHR. The day I arrived in Honolulu—a year ago last April.

Mr. MCCLANAHAN. Introduced through your brother?

Mr. GEHR. Yes, sir.

Mr. MCCLANAHAN. Up to that time you and your brother were interested in the scheme alone?

Mr. GEHR. No; Vauter, of Chicago.

Mr. MCCLANAHAN. Who else?

Mr. GEHR. No one else, except my brother and I, had spoken of the matter in the States. It was our intention to have Colonel Jones join us.

Mr. MCCLANAHAN. Why?

Mr. GEHR. Because we wanted him.

Mr. MCCLANAHAN. No other reason?

Mr. GEHR. Colonel Jones was interested in the railroad and had been of great service to my brother.

Mr. McCLANAHAN. Any other reason?

Mr. GEHR. None whatever.

Mr. McCLANAHAN. How was he of assistance to your brother in regard to the Hilo Railway proposition?

Mr. GEHR. The information from what I heard from my brother. He was working with my brother in the combination to get a franchise for the railroad.

Mr. McCLANAHAN. To obtain from whom?

Mr. GEHR. Obtain from the governor.

Mr. McCLANAHAN. Had your brother known Mr. Jones before he came here?

Mr. GEHR. I think not.

Mr. McCLANAHAN. Was it for the same reason you gentlemen in the Hilo Railroad proposition that you allowed him to come into the Kohala water scheme with you?

Mr. GEHR. I stated before we interested ourselves with Colonel Jones because he was a man of influence and position. I came here knowing nobody.

Mr. McCLANAHAN. Did you know his position at the time you came?

Mr. GEHR. I knew that he was colonel of the Hawaiian National Guard. I did not know of any other position.

Mr. McCLANAHAN. It was because of his influence that you took him in with you?

Mr. GEHR. You ask a question there that draws an inference, I do not care to be drawn from what I have said before.

Mr. McCLANAHAN. Your counsel has made statements and I suppose it has been upon information given by you that after you came into the field other parties thought that they would form a plan; was that information given to counsel by you?

Mr. GEHR. No, sir.

Mr. McCLANAHAN. Is that a correct statement?

Mr. GEHR. Not exactly; no.

Mr. McCLANAHAN. As a matter of fact there was some one in the field before you, was there not?

Mr. GEHR. We so learned later on, after we had been in the field for many weeks.

Mr. McCLANAHAN. By "in the field" you mean in the Kohala Mountains?

Mr. GEHR. While we were in the mountains surveying.

Mr. McCLANAHAN. When did you first learn that Colonel Parker was an applicant before the governor for this license?

Mr. GEHR. About the time—within a day or so of the time—when we filed our application with the governor, which was, I think, on or about the 6th or 7th day of June, 1901.

Mr. McCLANAHAN. Prior to that you knew nothing about Colonel Parker's scheme?

Mr. GEHR. Absolutely nothing.

Mr. McCLANAHAN. And you had made no plan or taken no steps toward asking for the license yourself here?

Mr. GEHR. I did not propose to do it until after we had first investigated the source of supply and the possibility of taking it.

Mr. McCLANAHAN. And you finished that work before you applied for a license?

Mr. GEHR. No, we did not; we had done enough so that we knew it was practicable?

Mr. McCLANAHAN. What had you done in the way of work?

Mr. GEHR. We cut our way into the Kohala Mountains and investigated the character of the country to see if there was sufficient water there for us to take out.

Mr. MCCLANAHAN. Did you prepare any maps?

Mr. GEHR. We did.

Mr. MCCLANAHAN. Where are they?

Mr. GEHR. With me.

Mr. MCCLANAHAN. Have I ever seen them?

Mr. GEHR. Yes.

Mr. MCCLANAHAN. Where?

Mr. GEHR. You saw them first at the meeting of the council after it was announced we had made our coalition. You saw them afterwards.

Mr. MCCLANAHAN. After the coalition was announced? When was that?

Mr. GEHR. About the 1st of September, 1901.

Mr. MCCLANAHAN. That was about the date that the coalition was perfected?

Mr. GEHR. Yes, sir.

Mr. MCCLANAHAN. What is the date of the agreement which you say formulates the contract? Isn't it September 17, 1901?

Mr. GEHR. The agreement was made some time prior to that.

Mr. MCCLANAHAN. But not reduced to writing?

Mr. GEHR. There was not time to reduce it to writing. We left at 12.30 at midnight, from the time we went to the council to the first executive meeting after that.

Mr. MCCLANAHAN. When was this agreement reduced to writing?

Mr. GEHR. The early drafts were made—we commenced them on the next day when we were before the council asking for a license for Colonel Jones.

Mr. MCCLANAHAN. When was that?

Mr. GEHR. About the 1st of September; may have been the 3d, 4th, or 5th.

Mr. MCCLANAHAN. You commenced then to do what—to draft an agreement?

Mr. GEHR. We had, I should say, at least a dozen drafts.

Mr. MCCLANAHAN. What was the necessity of so many drafts?

Mr. GEHR. The necessity was we wished to have all of our interests protected. If we had been willing to assume the Booth option, the agreement would have been signed the same day that we made the agreement; but we were not willing to take the risk. We were trying to formulate a contract which would express our intention, and yet not hold us under that option unless we decided to do it.

Mr. MCCLANAHAN. And it took a dozen drafts to bring about that result?

Mr. GEHR. Yes, sir; maybe more. We would make suggestions and Mr. Ballou would make suggestions.

Mr. MCCLANAHAN. Do you recognize that as the first draft?

Mr. GEHR. That is not the first draft.

Mr. MCCLANAHAN. What draft is that, the second?

Mr. GEHR. I don't know.

Mr. MCCLANAHAN. Is it a draft that was considered?

Mr. GEHR. Many of the terms are familiar or similar to these.

Mr. MCCLANAHAN. You have no reason to suppose it was not a draft that was proposed to the parties?

Mr. GEHR. I have no reason to have any opinion.

Mr. MCCLANAHAN. Is that the second draft, or is it a draft at all of

the proposed agreement? I want to say that the handwriting on this which I now offer in evidence is the handwriting of my partner, Mr. S. M. Ballou. I offer in evidence a paper shown to witness marked on the outside, "First draft. Draft of agreement, S. Parker and J. W. Jones, trustee." (Received and marked "Exhibit 1.")

Mr. GEHR. That is similar in verbiage to a draft considered [referring to another paper in his hand, handed by Mr. McClanahan].

Mr. MCCLANAHAN. I offer in evidence a paper marked "Second draft." It is Robertson's draft of preliminary agreement. (Accepted and marked "Exhibit 2.") I hand you a paper indorsed "Third draft. K. B. & McC." I ask you if that is one of the drafts which you spoke of?

Mr. GEHR. I believe it to be; it is very similar.

Mr. MCCLANAHAN. We offer the third draft in evidence—the one referred to by the witness. (Received and marked "Exhibit 3.") I hand you a paper indorsed "4th draft. A. G. M. R. Preliminary agreement." I ask you if that was one of the propositions considered by the parties?

Senator MITCHELL. Mr. McClanahan, there is no one claims that these agreements were executed?

Mr. MCCLANAHAN. I wish to show that there never has been any agreement; that it was an abortive attempt to perfect it. I offer now in evidence a draft marked "Fourth draft." (Received and marked "Exhibit 4.")

Mr. MCCLANAHAN. I offer you a fifth draft and ask you to identify that as one of the propositions discussed between the parties. (Received and marked "Exhibit 5.")

Mr. GEHR. These are all similar in terms to matters that were discussed

Mr. MCCLANAHAN. Will you answer the question? Wasn't that one?

Mr. GEHR. They were all similar in terms. I will not say it was.

Mr. MCCLANAHAN. I offer it in evidence for what it is worth. I now hand you a paper marked "Sixth draft," and ask you if that was one of the propositions discussed?

Senator MITCHELL. Hurry along, gentlemen, our time is passing.

Mr. GEHR. My answer is the same as before.

Mr. MCCLANAHAN. I offer this draft in evidence. (Received and marked "Exhibit 6.") There were others besides, before the agreement of September 17?

Mr. GEHR. There was one presented the morning of the day we went before the executive council, before we went to the council.

Mr. MCCLANAHAN. When was that?

Mr. GEHR. That practically provided nothing except our assuming the Booth options, assuming the liability under them, which we positively declined to do.

Mr. MCCLANAHAN. Were there any subsequent drafts of agreement?

Mr. GEHR. I think there were. Possibly a dozen more.

Mr. MCCLANAHAN. Who drew those offered in evidence here?

Mr. GEHR. Colonel Jones drew one. I won't testify in regard to those at all.

Mr. MCCLANAHAN. Who drew the drafts considered?

Mr. GEHR. The drafts considered, some were drawn by Colonel Jones with the assistance of my brother, Mr. Robertson, an attorney here, and myself, and others were prepared in your office by your stenographer.

Mr. MCCLANAHAN. After the preparation of the draft we had a meeting and would discuss the points contained in the agreement?

Mr. GEHR. Yes.

Mr. MCCLANAHAN. And would disagree and then meet again?

Mr. GEHR. Yes; trying to formulate a clause.

Mr. MCCLANAHAN. Was I present at all of these meetings?

Mr. GEHR. You were not.

Mr. MCCLANAHAN. Was I present at the meeting of September 17 when the draft was discussed?

Mr. GEHR. My impression is that you were on the island of Kauai.

Mr. MCCLANAHAN. Was Mr McCrosson present?

Mr. GEHR. No, sir.

Mr. MCCLANAHAN. Was Colonel Parker present?

Mr. GEHR. He was.

Mr. MCCLANAHAN. At the meeting of September 17?

Mr. GEHR. Yes.

Mr. MCCLANAHAN. You knew I was interested in the scheme?

Mr. GEHR. I did.

Mr. MCCLANAHAN. You knew Mr. McCrosson was?

Mr. GEHR. I did.

Mr. MCCLANAHAN. When I returned from Kauai, were you here?

Mr. GEHR. I was.

Mr. MCCLANAHAN. At that time you considered that there was a binding agreement between the parties?

Mr. GEHR. I did.

Mr. MCCLANAHAN. Did you ask me to sign that agreement?

Mr. GEHR. I don't know whether I did or not. I don't remember just when you returned from Kauai, Mr. McClanahan.

Mr. MCCLANAHAN. That is an important matter. Do you know whether or not anyone ever asked me to sign it or not, from your side?

Mr. GEHR. The matter was under discussion all that time. Upon your return you told us that if you had been here the agreement would have been made a little differently to suit you, but inasmuch as Mr. Ballou had been authorized by you to act, that you consented to it, even though you had been here you would not.

Mr. MCCLANAHAN. Please answer the question.

Mr. GEHR. Yes; I recall one day now, where I was present when you were asked to sign it; and that was, the day after we received the opinion of Mr. Ryan you were asked to sign it.

Mr. MCCLANAHAN. What did I say?

Mr. GEHR. You declined.

Mr. MCCLANAHAN. Did Mr. McCrosson? Was he ever asked to sign it?

Mr. GEHR. I do not know. I never saw Mr. McCrosson from the 8th day of July until I met him in Washington last January or late in December.

Mr. MCCLANAHAN. Mr. Wundenburg represented Mr. Parker, and was he asked to sign it?

Mr. GEHR. Both yes and no. That is a question which will not admit of a catagorical answer.

Mr. MCCLANAHAN. Didn't he decline to sign it?

Mr. GEHR. I heard so on the outside. He never declined to me.

Mr. MCCLANAHAN. Now, Mr. Gehr, when did the parties come together as stated by your counsel?

Mr. GEHR. How come together?

Mr. MCCLANAHAN. That is what I want to know.

Mr. GEHR. You mean meet or make an agreement?

Mr. MCCLANAHAN. When did you make an agreement?

Mr. GEHR. About the 1st of September.

Mr. MCCLANAHAN. You have stated that at a meeting in the bungalow that we practically understood each other and were prepared to come together. Did I misunderstand you?

Mr. GEHR. You misunderstood me.

Mr. MCCLANAHAN. What was the result of that meeting?

Mr. GEHR. The result of that meeting at the Bungalow—both you and Colonel Parker were present—was that we did not hear from you as you had agreed, and I heard outside that you had decided not to come together, that our price was too steep.

Mr. MCCLANAHAN. What was the price that you placed on the proposition that we thought too steep?

Mr. GEHR. Fifty-one per cent—the control.

Mr. MCCLANAHAN. At that time what did you hold out to us as an inducement for our pooling our interests with yours?

Mr. GEHR. Our surveys, our work in the mountains, the result of our work, brains and money spent.

Mr. MCCLANAHAN. All one thing. Anything else?

Mr. GEHR. We had nothing else to offer you.

Mr. MCCLANAHAN. Didn't you offer us, hold out to us the inducement, that if we came together there would be no auction of the license, but it would be granted to the consolidated concern?

Mr. GEHR. I did not.

Mr. MCCLANAHAN. Didn't Colonel Jones make that offer?

Mr. GEHR. He did not.

Mr. MCCLANAHAN. Wasn't that the sole consideration upon which we dealt with you?

Mr. GEHR. No; it was not on our part. I don't know what you thought.

Mr. MCCLANAHAN. Wasn't that stated at the meeting?

Mr. GEHR. It was not.

Mr. MCCLANAHAN. In furtherance of the idea I have suggested, was not Colonel Jones asked how he could guarantee that the government would not put it up at auction—wasn't Colonel Jones asked that?

Mr. GEHR. It was not. The word guarantee was never used at that meeting.

Mr. MCCLANAHAN. Didn't I ask him to this purport, "How can you deliver the goods?" You know what that means?

Mr. GEHR. I know what it means. I don't remember that the phrase was used.

Mr. MCCLANAHAN. To that purport I said.

Mr. GEHR. You were asked?

Mr. MCCLANAHAN. Didn't I ask?

Mr. GEHR. You asked—I think it was you that asked—or stated that the governor would not act; that you were informed that the governor would not act on account of this letter from Mr. Hitchcock, in which he stated unless he had clear authority under the law he would not be justified in issuing the license. I do not know and had never met Secretary Cooper but once up to that time and that was in executive council, but it was our information—my information was received from Colonel Jones—that if this opposition should be withdrawn so that there would be only one party in the field, the governor in the meantime having studied the letter of Mr. Hitchcock and the law, and

having practically come to the conclusion that they did have the authority, that the license would issue. But if the license were to be issued it would be subject to approval of the Secretary of the Interior and not to be worked under until such time. That was the statement.

Mr. MCCLANAHAN. That if there was not a conflict of interest the license would be issued?

Mr. GEHR. If the license was made subject to the approval of the Secretary of the Interior, our information was that the governor construed the law to the effect that they did have the authority to issue the license.

Mr. MCCLANAHAN. Did you not state that if we came together the license would not be put up at public auction?

Mr. GEHR. We did not.

Mr. MCCLANAHAN. Let me follow my thought a little further. Did we not then ask you for assurance of that fact—some assurance of your guaranty or assertion that something would not be done?

Mr. GEHR. We did not assert that.

Mr. MCCLANAHAN. Do you remember asking Colonel Jones whether a certain official of the Government was not interested with you in that scheme?

Mr. GEHR. You asked that?

Mr. MCCLANAHAN. Why did I ask that question?

Mr. GEHR. I don't know why you asked it.

Mr. MCCLANAHAN. I named the official, did I not?

Mr. GEHR. I don't remember whether you did or not. The reference was to the commissioner of public works or the commission of public lands.

Mr. MCCLANAHAN. Did I not put that question directly to Colonel Jones, because of the positive assurance that he could accomplish something that we were fearful we could not do?

Mr. GEHR. I don't know.

Mr. MCCLANAHAN. And that he could accomplish—

Mr. GEHR. I don't know what you were seeking to do.

Mr. MCCLANAHAN. You can't explain now why I asked that question?

Mr. GEHR. I can not. I don't know what is in your mind.

Mr. MCCLANAHAN. You didn't resent that question?

Mr. GEHR. We did, sir.

Mr. MCCLANAHAN. At the time?

Mr. GEHR. At the time.

Mr. MCCLANAHAN. What did you say?

Mr. GEHR. You were assured positively that no one connected with the Government had anything to do with our plans.

Mr. MCCLANAHAN. Was that as far as your resentment went?

Mr. GEHR. It was, as far as I remember. You appeared to be satisfied with our statement.

Mr. MCCLANAHAN. I appeared to be satisfied?

Mr. GEHR. You appeared to be satisfied.

Mr. MCCLANAHAN. Your counsel has stated that when you were in Washington, you still believed that this contract with Colonel Parker was valid and in force. Has he been misinformed? Is that a correct statement?

Mr. GEHR. That is true.

Mr. MCCLANAHAN. Correct?

Mr. GEHR. Correct.

Mr. MCCLANAHAN. So that when you were in Washington you then believed that the agreement was still in force?

Mr. GEHR. I still believe the agreement is in force.

Mr. MCCLANAHAN. Did you believe it then?

Mr. GEHR. Let me answer. I did not believe that Colonel Parker had attempted to throw it over until after he arrived at Washington. I wrote him at the Arlington Hotel, Washington, and asked him, said to him that I had just heard from the islands to the effect that he was going to break his agreement with us; that I would not believe that he would do a thing of that kind or ratifying the report of his agent, until he himself should tell me that he had authorized it. That was my position.

Mr. MCCLANAHAN. When was that letter written?

Mr. GEHR. About—well, it was about the middle or early part of November. I have a copy of the letter at my room at the hotel.

Mr. MCCLANAHAN. It was in November?

Mr. GEHR. November.

Mr. MCCLANAHAN. 1902?

Mr. GEHR. 1901.

Mr. MCCLANAHAN. Do you remember a conversation had with Mr. McCrosson in the Congressional Hotel, April 16, 1902?

Mr. GEHR. I don't remember what date I met Mr. McCrosson at that time.

Mr. MCCLANAHAN. Did you ever say anything about agreements being in force in that conversation?

Mr. GEHR. I don't remember that particularly. The subject of the agreement was mentioned several times between Mr. McCrosson and myself, and whether it was at that conversation or another, I told Mr. McCrosson that we had never attempted to break our agreement, that we were ready to keep it at any and all times.

Mr. MCCLANAHAN. Wasn't that conversation April 16, 1902, at the Congressional Hotel? Was not that for the purpose of seeing whether we would not enter into the agreement for a ditch company?

Mr. GEHR. That is what I understood you to say, if we could not come together.

Mr. MCCLANAHAN. Then you didn't understand the agreement was valid with Colonel Parker?

Mr. GEHR. Oh, yes, I did.

Mr. MCCLANAHAN. Come together the second time?

Mr. GEHR. I wished Mr. McCrosson to keep the agreement.

Mr. MCCLANAHAN. Did you so state in the conversation?

Mr. GEHR. That matter was discussed when we were trying to agree; I stated our position as being that we would simply revert to the agreement that was made.

Mr. MCCLANAHAN. Didn't you state that you would like to enter into a new agreement on those lines?

Mr. GEHR. At no time or place.

Mr. MCCLANAHAN. You are sure of that?

Mr. GEHR. Positive.

Mr. MCCLANAHAN. Let us understand each other.

Mr. GEHR. Yes; I am positive. You can bring the stenographer's report of that meeting.

Mr. MCCLANAHAN. At this meeting you didn't state that the basis of the new agreement proposed between you and the Hawaii Ditch Company was to be found in the terms of the Parker agreement?

Mr. GEHR. I stated that we would simply revert to that agreement.

Mr. MCCLANAHAN. By reverting, by that were you not asking for a new contract?

Mr. GEHR. That is the same statement I made a week or ten days before at the Albany Hotel to Governor Dole.

Mr. MCCLANAHAN. Why was this held?

Mr. GEHR. I was invited to meet Mr. McCrosson to see if we would not patch up our differences. I at first declined, as I had at our first meeting, and stated that at this time Mr. McCrosson should come to me. I was told that it was no use in being stubborn, so I met Mr. McCrosson.

Mr. MCCLANAHAN. Let us revert to the islands. When here before the council you made statements that Mr. Ballou, arising, asked to withdraw the Parker agreement, stating that we had come together with the Jones combination. Do you remember that statement?

Mr. GEHR. I made that statement.

Mr. MCCLANAHAN. Don't you know very well that that was stated to the governor in a different way—that we were anxious to have the government consider at that time the terms of a license that would grant to someone, and that the governor did not like to go ahead until it was definitely known whether the conflicting interests had consolidated? Mr. Ballou's statement said that he might assume that there would be an agreement.

Mr. GEHR. There were four or five questions.

Mr. MCCLANAHAN. Wasn't it so?

Mr. GEHR. I don't know what was the idea; I know what he said.

Mr. MCCLANAHAN. Wasn't it held in the governor's room there?

Mr. GEHR. It was held in the large room where all our meetings were held—where the executive council was held.

Mr. MCCLANAHAN. I am not now speaking of the statement of Mr. Ballou, but of the circumstances.

Mr. GEHR. I don't understand.

Mr. MCCLANAHAN. Didn't he say that in the proposal for the license we would state to the governor that in all likelihood an agreement would be reached between the parties?

Mr. GEHR. No, sir.

Mr. MCCLANAHAN. On that understanding wasn't it that Mr. Ballou withdrew Colonel Parker's application?

Mr. GEHR. It was not.

Mr. MCCLANAHAN. Are you clear on that?

Mr. GEHR. Yes; Mr. Ballou said that matters had so far advanced that he desired to withdraw the application of Samuel Parker.

Mr. MCCLANAHAN. Had but one meeting?

Mr. GEHR. Meetings at the Bungalow and at midnight at your office.

Mr. MCCLANAHAN. After that we had eight or ten more, so Mr. Ballou was mistaken in the statement that we had so far advanced?

Mr. GEHR. I will tell you the reason why we didn't afterwards appear to be so far advanced—the Booth option. We knew there was a Booth option at Pūnāpu, but we knew nothing about what that option contained until just as we were to go to the council meeting.

Mr. MCCLANAHAN. Who showed it?

Mr. GEHR. Mr. Ballou. That was the time Mr. Ballou prepared the first draft. To accept that we would have been made liable on our part for the Booth option, which we declined to assume. We thereupon went to the council and the withdrawal was made as I stated. The mere terms of how this option should be treated were left for our future consideration. The Booth option was the only thing that stood in the way of Colonel Parker's signature that morning. Our meeting, our terms, were had in your office, and you will remember

that Colonel Parker, Mr. Ballou, and McCrosson left the main room for a private conversation, and Colonel Jones, my brother, and I did the same. Finally we did come together distinctly and decidedly.

Mr. MCCLANAHAN. What agreement did we come to about the Booth option at that time?

Mr. GEHR. All of this contract—

Mr. MCCLANAHAN. I asked a question; what agreement did we come about the Booth option at the time?

Mr. GEHR. We understood that you simply had a plain option on that land, the terms of which you had not stated, as we had not come together.

Mr. MCCLANAHAN. Another agreement about the Booth option?

Mr. GEHR. It was to be put in; yes. It was to be put in the combination.

Mr. MCCLANAHAN. How? The company to assume it?

Mr. GEHR. No; it was to be a part of the assets of Colonel Parker.

Mr. MCCLANAHAN. The company to assume it?

Mr. GEHR. They were to have the rights under that option.

Mr. MCCLANAHAN. The company to assume the option?

Mr. GEHR. There was no talk about assuming the option.

Mr. MCCLANAHAN. That is what you mean in the agreement; the company were to assume the option?

Mr. GEHR. There was no talk about that.

Mr. MCCLANAHAN. What was to become of the option at that meeting?

Mr. GEHR. Colonel Parker was to transfer it to the company.

Mr. MCCLANAHAN. You knew the option was for \$100,000?

Mr. GEHR. We did not—not until Monday morning.

Mr. MCCLANAHAN. Didn't you know?

Mr. GEHR. No; we would have been satisfied with any reasonable option.

Mr. MCCLANAHAN. Was that because you considered the Booth option valuable?

Mr. GEHR. We did not consider it of any such value. We said so then and state so now, that the ditch could be built without the Booth property.

Mr. MCCLANAHAN. Quite sure of that?

Mr. GEHR. That is our opinion.

Mr. MCCLANAHAN. You would run the ditch, then, north of the Booth property?

Mr. GEHR. It could be so done.

Mr. MCCLANAHAN. But if you ran it farther toward the Waipio land the Booth option would be valuable?

Mr. GEHR. Yes; it has a value.

Mr. MCCLANAHAN. You stated this morning that you could secure rights that we held by this option without any trouble?

Mr. GEHR. I did not say so.

Mr. MCCLANAHAN. We had rights which you could secure?

Mr. GEHR. I don't think I stated it quite in that way.

Mr. MCCLANAHAN. Will you refresh my memory?

Mr. GEHR. In speaking about the surface waters of Waipio, regarding a statement of Mr. McCrosson of the Hawaii Ditch Company that the company has control, when upon that, I made this statement, that under an agreement with the Bishop estate or Bishop Museum—which ever it may be—according to the statement made by W. O. Smith, one of the trustees, that Mr. Parker has the first right to get that water

in case the Bishop estate decides to lease or sell the water, but if the Bishop estate decides not to sell the water he has not the right to it.

Mr. MCCLANAHAN. You are talking of something foreign to the Booth option?

Mr. GEHR. Yes; you asked me other things.

Mr. MCCLANAHAN. I want—

Mr. GEHR. Let me finish my answer. One of the strong claims made by Mr. McCrosson in Washington was the claim that we could not get all these waters. As a matter of fact W. O. Smith has stated that Mr. Parker has not that control which Mr. McCrosson claims for him.

Mr. MCCLANAHAN. You are going back of the Booth option?

Mr. GEHR. You didn't specify.

Mr. MCCLANAHAN. You have stated this morning that the rights we held under the Booth option you could get?

Mr. GEHR. I did not.

Mr. MCCLANAHAN. I misunderstood you, then. Did you mention the Booth option?

Mr. GEHR. I did.

Mr. MCCLANAHAN. What did you say?

Mr. GEHR. I mentioned the Booth option. I intended to say, if I did not, that Mr. Booth had had some talk with Colonel Jones about giving us the option after he learned that our application was before the council.

Mr. MCCLANAHAN. Is that all you said about the Booth option?

Mr. GEHR. I went on to recite the terms.

Mr. MCCLANAHAN. Is that all, with regard to the control of it?

Mr. GEHR. I think I did say we probably could obtain the same option.

Mr. MCCLANAHAN. What made you make that statement, Mr. Gehr?

Mr. GEHR. Simply for the reason that Mr. Booth over a year ago approached Colonel Jones when he knew our application was in.

Mr. MCCLANAHAN. As a matter of fact, didn't Colonel Jones go to Mr. Booth, to his house?

Mr. GEHR. You will have to ask the colonel. My information is hearsay. I understood the first talk was on the street.

Mr. MCCLANAHAN. That was the basis for your statement, that you could probably get rights we had under the Booth option?

Mr. GEHR. Yes.

Mr. MCCLANAHAN. You are familiar with the statement made by Mr. Booth just prior to his leaving Washington, are you not?

Mr. GEHR. I have read it several times.

Mr. MCCLANAHAN. Who prepared that statement?

Mr. GEHR. I don't know.

Mr. MCCLANAHAN. Wasn't it prepared by Mr. Thurston?

Mr. GEHR. I don't know. You will have to ask the Senator.

Senator THURSTON. I can tell you it was not. I never heard of it.

Mr. MCCLANAHAN. I guessed it from the picturesqueness of the phraseology.

Senator THURSTON. It does credit to whoever prepared it.

Mr. MCCLANAHAN. This morning you stated you had given your opponents information from your maps. When did you give that information, and to whom?

Mr. GEHR. The morning after the announcement by Mr. Ballou that we had made a combination, in the room where the council usually meets and to all who were present, including Mr. Ballou and Colonel Parker.

At the request of Governor Dole our maps were spread upon the table, and the governor said, "Now you are come together, we will proceed." We exposed the maps on the table; at a later date, in your own office.

Mr. McCLANAHAN. Was I there?

Mr. GEHR. I don't remember whether you were or not.

Mr. McCLANAHAN. As a matter of fact, I have never seen the maps.

Mr. GEHR. It may have been.

Mr. McCLANAHAN. I have never seen the maps. Are the maps here now?

Mr. GEHR. Yes.

Mr. McCLANAHAN. Will you produce them?

Mr. GEHR. If the commission wants them.

Mr. McCLANAHAN. Will you produce any evidence of your work on Hawaii?

Mr. GEHR. Yes. I wish to state that the maps cost money. I don't propose to allow any more information to go in than we already have.

Mr. McCLANAHAN. You say we have seen them. What harm would it do? What will you produce?

Mr. GEHR. I can show by such evidence as the commission wants the fact of our being in the mountains and our doing this work.

Mr. McCLANAHAN. Your being there?

Mr. GEHR. Engineers with us.

Mr. McCLANAHAN. Who was your engineer?

Mr. GEHR. One was A. Leger, of Chicago.

Mr. McCLANAHAN. Men you brought down?

Mr. GEHR. Yes.

Mr. McCLANAHAN. Wasn't he employed by the Hilo Railroad Company?

Mr. GEHR. He was not. Mr. Randolph was the engineer. There were several men in the mountains.

Mr. McCLANAHAN. You have in a way criticised the lack of information which Mr. Parker's friends have of this water scheme, have you not, Mr. Gehr?

Mr. GEHR. Lack of information which they had at that time.

Mr. McCLANAHAN. In confirmation of that you bring forward instances in which you say we admitted that you knew all about—more about Colonel Parker's rights than he did.

Mr. GEHR. I remember.

Mr. McCLANAHAN. Will you consent to tell the commission how it happened that that admission was made?

Mr. GEHR. I will do so.

Mr. McCLANAHAN. Please do so.

Mr. GEHR. It was evidence when you and Colonel Parker met with Colonel Jones and I at the Bungalow.

Mr. McCLANAHAN. Captain Ross was there, wasn't he?

Mr. GEHR. No.

Mr. McCLANAHAN. All right; proceed.

Mr. GEHR. Not that afternoon. We agreed that it would be very much better if we would combine, and Colonel Parker made the statement to go ahead; if there was nothing in this, no harm was done, and if it was valuable there was enough in it for us all. If we got into a fight, they would get nothing and we would get nothing. So we agreed to combine. We started in to consider the terms. As the meeting was held at the request of Samuel Parker, we thought the terms should

come from him, the statement of the terms. You stated personally that it would be necessary for us to make a settlement of conditions upon which we would come together for the reason that you did not know what your own rights were worth, adding that we had been in the mountains and already knew what they were worth. You at the same time asked what that would be worth in this matter. I did not tell you the exact amount. I told you a larger amount, largely in excess of the amount you had named.

Senator MITCHELL. It seems to me this is strung out a long way. Of course if we had time to remain and go into the details it would be different, but our time is limited. We can not sit here and go into the details of this business for days. We have not the time. At the same time Mr. Gehr has had his say and his counsel has had his say and we will allow you a reasonable time to have your say. At the same time we wish to take up this matter without taking too much time. I do not wish to deprive you of anything you consider proper. You have made a lengthy cross-examination. However, go on with what you think is essential.

Mr. MCCLANAHAN. I do not wish to tire the commission.

Senator MITCHELL. We are not tired. But we have a very limited time. Proceed.

Mr. MCCLANAHAN. I will not intrude upon the commission but a few more questions. You have spoken of a letter written to me by Mr. O'Shaughnessy; do you know who he is?

Mr. GEHR. I have heard.

Mr. MCCLANAHAN. An eminent engineer, is he not?

Mr. GEHR. I understand so.

Mr. MCCLANAHAN. You have spoken of having \$25,000 to do preliminary work with, have you not?

Mr. GEHR. Yes, sir.

Mr. MCCLANAHAN. What is Mr. O'Shaughnessy to charge us for this preliminary work? Can you say from memory? Wasn't it \$25,000 worth of stock, \$300, and all his expenses in the making of the preliminary survey?

Mr. GEHR. I don't remember. I thought it was a percentage of stock and a certain amount.

Mr. MCCLANAHAN. The work which you have left undone would cost \$25,000 to do? I think it an outside figure.

Mr. GEHR. No, sir.

Mr. MCCLANAHAN. Is your work of any value now?

Mr. GEHR. It is of value to satisfy our people to put up \$25,000 on top of it.

Mr. MCCLANAHAN. You could not use it now in any survey?

Mr. GEHR. No.

Mr. MCCLANAHAN. You have no other rights or assets?

Mr. GEHR. I won't admit that at the present time. The agreement with Colonel Parker—

Mr. MCCLANAHAN. That agreement, if it exists at all, can be enforced in the courts, Mr. Gehr.

That is all.

Mr. E. S. BOYD, the commissioner of public lands, recalled.

Direct examination:

Mr. MCCLANAHAN. Mr. Boyd, have you received a request to bring with you certain correspondence relating to the Hawaii Ditch Company?

Mr. BOYD. Yes.

Mr. McCLANAHAN. What have you got? I ask you first for the original application of Col. Samuel Parker for a license over at North Kohala.

Mr. BOYD. The application I can not find in the office, unfortunately. During the consideration of this water license between the two contending parties it was referred to the superintendent of public works for report by the Government civil engineer, and when Mr. Ryan's report came everything stopped, and consequently we have not found the papers. They have been mislaid, but can be found. We had very short notice. We will look the matter up. The application was made and received February 11, 1901.

Mr. McCLANAHAN. What papers are you unable to find in regard to the license of Samuel Parker?

Mr. BOYD. Notice of application.

Mr. McCLANAHAN. The application of Samuel Parker?

Mr. BOYD. The original copy of the license. The consideration of this matter under the different commissioners was had, and the original grant was drawn by them. I do not know where it is, but undoubtedly it can be brought forward. I think, upon presentation, if you have a copy, it can be set forth as drawn up.

Mr. McCLANAHAN. What else has been mislaid that you are unable to bring with you.

Mr. BOYD. A letter dated April 15, 1901, from Kinney, Ballou & McClanahan to J. F. Brown, the same being in reply to the letter called for above. That letter was attached to the original application. The whole thing is mislaid.

Mr. McCLANAHAN. How do you know it was attached?

Mr. BOYD. I attached it myself. I was secretary to the commissioner.

Mr. McCLANAHAN. So you have seen the original application?

Mr. BOYD. Yes; I have a copy here of an acknowledgment by myself as secretary during the absence of Mr. Brown.

Mr. McCLANAHAN. The date?

Mr. BOYD. February 18, 1901.

Mr. McCLANAHAN. I offer the letter in evidence. [Received and marked Exhibit 7.] Did we furnish the information required by that letter?

Mr. BOYD. Yes; you did file a map, copy of a map of Hawaii, with the proposed presumable line in ink, showing approximately the line of your ditch, and a preliminary survey.

Mr. McCLANAHAN. What is that map?

Mr. BOYD. That map is in the hands of the assistant superintendent of public works. I will find it in a day or so. That was referred to the civil engineer, and when this matter was stopped it was left in abeyance for the time being. It can be brought together in a few days.

Mr. McCLANAHAN. Can you put your hand on the letter in answer to that? Have you lost the letter?

Mr. BOYD. Yes, sir; that was included, together with the other letter. In the office always we put all matter concerning one thing into one batch.

Mr. McCLANAHAN. Where is the next correspondence that you find?

Mr. BOYD. The next is October 1, 1901—Kinney, Ballou & McClanahan to the Hon. Sanford B. Dole. I did think Mr. Hawes would be here. He has those matters.

Mr. MCCLANAHAN. Have you a letter of September 30, 1901, and an exhibit marked A attached, addressed to Mr. Dole from our firm?

Mr. BOYD. I think Mr. Hawes, the governor's secretary, has that letter.

Mr. MCCLANAHAN. Have you a letter dated September 3, 1901?

Mr. BOYD. I think so.

Mr. MCCLANAHAN. Have you a letter of March 25, 1902, from me to Governor Dole?

Mr. BOYD. Well, that letter was a letter that was sent to him by you before he left the islands for Washington. I am almost sure I saw that letter in Washington, but we could not find this letter in the governor's office.

Mr. MCCLANAHAN. The governor could not find it?

Mr. BOYD. I don't know.

Mr. MCCLANAHAN. Have you a letter from Governor Dole to Secretary Hitchcock, opposing legislation in favor of the Hawaii Ditch Company?

Mr. BOYD. Yes, sir; I have a copy of that here.

Mr. MCCLANAHAN. Has the commission seen this letter before?

Senator BURTON. I think that is in the record.

Senator MITCHELL. I think so.

Mr. MCCLANAHAN. It is on pages 28, 29, and 30.

Senator MITCHELL. What date is it?

Mr. MCCLANAHAN. March 11, 1902. Have you a letter dated May 22, 1901, directed to the Secretary of the Interior from Henry E. Cooper, acting governor?

Mr. BOYD. Yes, sir. Mr. Hawes has got that—found that yesterday.

Mr. MCCLANAHAN. The reply thereto dated June 14, 1901?

Mr. BOYD. I think he has that, yes. It is very unfortunate he is not here this afternoon.

Mr. MCCLANAHAN. Have you the original of the letter addressed to the governor of Hawaii, dated September 11, 1901, signed Thomas Ryan, Acting Secretary?

Mr. BOYD. No, sir; I have not. That is in the governor's hands. That is the executive record.

Mr. MCCLANAHAN. What other correspondence or matters have you relating to this?

Mr. BOYD. The only thing I have got here is a copy of a letter from the Secretary of the Interior, transmitting the Van Devanter decision.

Mr. MCCLANAHAN. Is the letter in the record itself?

Mr. BOYD. Yes, sir.

Mr. MCCLANAHAN. The letter of transmission?

Mr. BOYD. The letter of transmission. I have a copy of it here. Letter to Mr. Dole. The Department copy was sent to the Land Office, filed and indorsed.

Mr. MCCLANAHAN. Can you furnish us with a copy of this letter, dated April 5, 1902, addressed to Governor Dole, signed by E. A. Hitchcock, Secretary—the letter of Hitchcock's accompanying the opinion? Have you anything else in the nature of correspondence?

Mr. BOYD. Yes, I have one correspondence here that I had a copy of. I will read it.

Mr. MCCLANAHAN. Well, let me see it, please. I offer in evidence a letter dated October 1, 1901, addressed to Sanford B. Dole, and signed Kinney, Ballou & McClanahan, attorneys for Samuel Parker. Have you the original of this letter with you, Mr. Boyd?

Mr. BOYD. Mr. Hawes has the original.

Mr. McCLANAHAN. There is an omission in this—the initials of the man who wrote the letter. The letter was written by Mr. Ballou.

Mr. BOYD. That letter is initialed S. M. B.

Mr. McCLANAHAN. Whichever member of the firm dictates or writes a letter signs his initials. S. M. B.—Do you know who that is?

Mr. BOYD. S. M. Ballou.

Mr. McCLANAHAN. Do you know Mr. Ballou's handwriting?

Mr. BOYD. I think I do. I have had a grist of correspondence with him.

Mr. McCLANAHAN. I will ask you to examine the record and testify as to those initials of the correspondence.

Mr. BOYD. Of the correspondence I have?

Mr. McCLANAHAN. Where properly should be the original license which was to be issued to Colonel Parker?

Mr. BOYD. Well, it should be in the public lands office.

Mr. McCLANAHAN. Was this license drafted in your office, or do you know where it was drafted?

Senator MITCHELL. What response, if any, did you get to this letter?

Mr. McCLANAHAN. I don't think there was any response, Senator. Do you know who drafted the license?

Mr. BOYD. I was only a secretary in the office; Mr. Brown was the commissioner.

Mr. McCLANAHAN. After this license had received the consideration of the council, you became commissioner of public lands, did you not?

Mr. BOYD. Well, I knew about the matter. I was appointed May 7, 1901. I knew of the procedure of the matter before the council, but what steps or actions were taken I am thoroughly ignorant of.

Mr. McCLANAHAN. You saw the license, didn't you?

Mr. BOYD. Yes.

Mr. McCLANAHAN. Did it meet with your approval?

Mr. BOYD. No, sir; because it should be radically changed.

Mr. McCLANAHAN. This part of the license did not meet with your approval?

Mr. BOYD. No. It was changed to meet the approval of the members of the council. There were others who objected.

Mr. McCLANAHAN. Who were they?

Mr. BOYD. Mr. McCandless, Mr. Lansing, and Mr. Brown, with three that were in the council at that time.

Mr. McCLANAHAN. I hand you a paper and ask you what that is, if you know?

Mr. BOYD. Yes; it is quite familiar to me.

Mr. McCLANAHAN. What is it?

Mr. BOYD. It is a draft of the proposed license of 1901 to Samuel Parker of all that land known now as Kohala Mountains.

Mr. McCLANAHAN. It is the license which was agreed to be issued to Colonel Parker?

Mr. BOYD. I don't know whether it was agreed or not.

Mr. McCLANAHAN. It is the license which was agreed between the parties here submitted to Washington.

Mr. BOYD. I presume so.

Mr. McCLANAHAN. What were the objections you raised to that license?

Mr. BOYD. I could not very well take the matter up.

Mr. McCLANAHAN. Haven't you them in mind?

Mr. BOYD. The question of the two ditches. This license grants two ditches, the upper and lower Kohala ditch, and there was several other matters.

Mr. MCCLANAHAN. And your objections to the license—what are they?

Mr. BOYD. There was no objection to the license in its form, none whatever, but of course there were other conditions added and made more binding.

Mr. MCCLANAHAN. No objection to the form?

Mr. BOYD. No objection.

Mr. MCCLANAHAN. No objection to the rights granted under it?

Mr. BOYD. No, sir; I had no objection to that.

Mr. MCCLANAHAN. We offer that in evidence, being a copy of the original license. (Received and marked "Exhibit 8.")

Mr. BOYD. This license as agreed upon was not agreed upon during my term of office. This was done when Mr. Brown was commissioner of public lands. Anything that you want to know I would suggest that you ask him to come before the commission.

Mr. MCCLANAHAN. Do you represent the government at this hearing?

Mr. BOYD. Yes, sir; I think I can safely say so.

Mr. MCCLANAHAN. Does the Government oppose the passage of this bill which is now before—under discussion?

Mr. BOYD. Well, the Government is opposed to the granting of such a bill as that.

Mr. MCCLANAHAN. What—on what grounds—what are the objections to it?

Mr. BOYD. The first thing, I would like to refer to my statement—my letter you refer to.

Mr. MCCLANAHAN. Does that statement contain your objection?

Mr. BOYD. A good deal of it; yes.

Mr. MCCLANAHAN. Any other that the statement does not contain? If so, please state them now.

Mr. BOYD. In the first place, as I have stated in my statement—

Mr. MCCLANAHAN. Don't tell what you have stated in there.

Mr. BOYD. My objections?

Senator MITCHELL. Any other objection not stated there?

Mr. BOYD. No, sir; that is all I got.

Senator MITCHELL. That covers the grounds of your objections?

Mr. BOYD. Yes, sir.

Mr. MCCLANAHAN. Does the Government claim the right to issue this license?

Mr. BOYD. Under the opinion as rendered by the Assistant Attorney-General, Interior Department, I think we can assume we have the right.

Mr. MCCLANAHAN. Do you claim the right to issue it?

Mr. BOYD. Yes.

Mr. MCCLANAHAN. Are you familiar with the recommendation of Secretary Cooper of this question made to the Secretary of the Interior?

Mr. BOYD. That is of course on certain condition of whether we have the authority to do so or not.

Mr. MCCLANAHAN. Page 89 of the report of the governor of Hawaii for 1901. I call attention to the paragraph, particularly on page 89, and ask you whether that is the attitude of the Government now?

Mr. BOYD. That is the recommendation on the part of the Territory of Hawaii.

Mr. MCCLANAHAN. Legislation?

Mr. BOYD. That is, the recommendation that Congress be requested to authorize the granting of licenses to divert water from lands where it is to arid sections that are otherwise adapted for agricultural purposes.

Mr. MCCLANAHAN. Is that the attitude of the Government to-day on that question of division of water?

Mr. BOYD. No, sir.

Mr. MCCLANAHAN. It is not?

Mr. BOYD. No, sir. That was asked of Congress, with the idea that if that decision of Assistant Secretary Ryan was not reversed that Congress should make such provision as would make it possible.

Mr. MCCLANAHAN. The Territory is very anxious to have this ditch built?

Mr. BOYD. Yes; it is anxious to have anybody build it in the proper way.

Mr. MCCLANAHAN. No one is suggesting to build it improperly, are they?

Mr. BOYD. Well, it has to take a person familiar with the conditions to make some restrictions on that license that will eventually make a progressive enterprise instead of a failure.

Mr. MCCLANAHAN. But, with these restrictions you have suggested, the Government would favor very much the issuance of that license?

Mr. BOYD. Yes, sir; of anyone.

Mr. MCCLANAHAN. It would be of immense material value to the Territory?

Mr. BOYD. Yes, sir.

Mr. MCCLANAHAN. To the island of Hawaii?

Mr. BOYD. Yes, sir.

Mr. MCCLANAHAN. More especially the interests contiguous to the line of the ditch?

Mr. BOYD. Yes, sir.

Mr. MCCLANAHAN. How do the people who own property along the line of this ditch feel about the Hawaii Ditch Company, do you know?

Mr. BOYD. I have not inquired into that matter. I do not think it is my business to do so. However, let me remind you, if I am able to do so, that this matter was considered before everybody interested in it—everybody in the council—and it was thoroughly discussed; it was not a star-chamber proceeding, but was for the public and those interested.

Mr. MCCLANAHAN. If Congress would incorporate in this bill the safeguards that seem desirable to be there from the standpoint of the Territorial officials, would there be any objection then to the passage of the act?

Mr. BOYD. Individual legislation or special legislation, then there would still be an objection.

Mr. MCCLANAHAN. What?

Mr. BOYD. About legislation made for the islands, I think it should be general and for the public.

Mr. MCCLANAHAN. No; you don't think that general legislation is the thing, do you?

Mr. BOYD. General legislation, certainly.

Mr. MCCLANAHAN. In a general way?

Mr. BOYD. General, not special.

Mr. MCCLANAHAN. I thought your stand was that you did not need legislation, that you had the power now?

Mr. BOYD. That is a question for Congress. I don't know that we can dispute their attitude. We have the authority and always had the authority. I have repeated that.

Mr. MCCLANAHAN. You have stated the request of the governor that Congress do enact special legislation is not the attitude of the present Government?

Mr. BOYD. Not the attitude for a reason.

Mr. MCCLANAHAN. There is no one from the Government asking for this general legislation?

Mr. BOYD. No, I do not think so, but had the decision of Mr. Ryan been right, why of course the legislation would have been required in regard to it.

Mr. MCCLANAHAN. Did you know the objections of Governor Dole to the passage of this bill?

Mr. BOYD. He stated them distinctly.

Mr. MCCLANAHAN. Did you know Governor Dole had agreed with me to withdraw his objections to the bill if we made certain modifications in it?

Mr. BOYD. I think he already stated this.

Mr. MCCLANAHAN. Did he state what those were?

Mr. BOYD. In Washington matter were presented to him.

Mr. MCCLANAHAN. Who by?

Mr. BOYD. By the record received in that decision of the Assistant Attorney-General the Government would have given anybody the license to build the ditch through that country, if we could not get any general legislation through.

Mr. MCCLANAHAN. But the governor stated to you that he had an understanding with me before leaving here that if I would make certain modifications in the bill before the Senate that he would withdraw his objection to the passage of it?

Mr. BOYD. The only thing I heard was some modification made.

Mr. MCCLANAHAN. Don't you know the modifications agreed upon between Governor Dole and myself before he left?

Mr. BOYD. Merely hearsay. I did not go into the matter with the governor at all. I can't state.

Mr. MCCLANAHAN. Do you remember meeting at the Albany Hotel of Governor Dole, yourself, the Gehr brothers—one of the Gehrs, I think—and McCrosson?

Mr. BOYD. Yes, sir.

Mr. MCCLANAHAN. Did you not state in that meeting, if the parties would consolidate their interests, the Government would issue the license without putting it up at auction?

Mr. BOYD. No, sir; I never did. The governor stated he had decided the matter would be put up at auction.

Mr. MCCLANAHAN. You state you did not say it, if we consolidated?

Mr. BOYD. I upheld the governor's position in the matter.

Mr. MCCLANAHAN. You did not make the statement I refer to?

Mr. BOYD. No, sir.

Mr. MCCLANAHAN. Why was Mr. McCrosson brought to that meeting?

Mr. BOYD. Well, it was a purely personal matter. This thing has gone on so long in Washington, that reflections having been cast on the Territorial officials by Mr. McCrosson, statements on the record—this was to clear the atmosphere—we thought we would have a meeting between the two factions.

Mr. MCCLANAHAN. Who was there?

Mr. BOYD. Myself and the governor. It was nothing but right that the two factions should come together. I think it was for the public benefit that such a thing was done. It was absolutely impossible for the two factions to come together.

Mr. McCLANAHAN. To get together without public auction?

Mr. BOYD. No, sir. Public auction the governor was determined upon. It was a precedent. It should be stopped.

Mr. McCLANAHAN. You have granted licenses without public auction?

Mr. BOYD. Yes; indeed I have.

Mr. McCLANAHAN. The Hawaiian Commercial—

Mr. BOYD. That Hawaiian Commercial Ditch license for fifty years. That was not issued in my day.

Mr. McCLANAHAN. The license is for fifty years, \$500 to use Government water on their private property?

Mr. BOYD. Yes, sir.

Mr. McCLANAHAN. That was not put up at auction?

Mr. BOYD. I don't know. The government has its own discretionary powers. The government is absolutely independent, responsible to nobody except the people of the islands.

Senator MITCHELL. When did the government first know of the reversal of the Ryan decision by the Assistant Attorney-General? Before or after the governor left here to go to Washington?

Mr. BOYD. After he got to the States, not to Washington. He left the islands March 25 and the decision rendered April 5, 1902.

Senator MITCHELL. April 5. Is it dated?

Mr. BOYD. I think it was, wasn't it?

Senator MITCHELL. When did the governor reach Washington?

Mr. BOYD. Along about that time, wasn't it? He was in Washington about April 10; between the 5th and the 10th, I think.

Senator MITCHELL. You wrote Mr. McCrosson to be present at that meeting at the Albany Hotel?

Mr. BOYD. Yes, sir.

Senator MITCHELL. I don't think that action can be criticised.

Mr. McCLANAHAN. I am not criticising it.

Cross-examination:

Senator THURSTON. Mr. Boyd, you are present land commissioner of this Territory?

Mr. BOYD. Yes, sir.

Senator THURSTON. Member of the governor's council?

Mr. BOYD. Yes, sir.

Senator THURSTON. Mr. Boyd, if anybody was granted a license of this character you would object?

Mr. BOYD. Yes, sir.

Senator THURSTON. Since the organization of the Territorial government has any license for the construction of an irrigation plant been granted by the governor and his council?

Mr. BOYD. Yes; the Waialua land license—that is, since annexation. The Waialua license was granted during the transition period by the commissioners of public lands.

Senator THURSTON. Since the organization of the present Territorial government has any been issued?

Mr. BOYD. I can mention instances, not of a very important character, to divert water springing in the Haleakala Mountains, Makuwao Mountains, island of Maui, diverted from elevation of 6,000 feet to

5,500 feet. It was a great inconvenience for cattle to climb up to the mountain tops to get it. It was granted to a certain party on Maui to divert that water.

Senator THURSTON. Mr. Boyd, are you or have you been interested, directly or indirectly, in any one of these irrigation schemes?

Mr. BOYD. No, sir; I have not been interested any more than in my public capacity.

Senator THURSTON. Have you had or have you now any purpose to take any action as a member of the governor's council in regard to the matter of this license, except such as impelled by your best judgment of the public good?

Mr. BOYD. I think it is the intention of the present government to protect the interests of the public and act for the public good.

Senator THURSTON. Your position, as I understand it, is that it is not for the best interests of this Territory to have Congress grant such concessions to an individual corporation as proposed in this bill?

Mr. BOYD. No, sir; I do not think it is.

Senator THURSTON. Then the grants that are given should be under the supervision of some general laws?

Mr. BOYD. Yes, sir.

Senator THURSTON. Your position, as I understand it, if the Secretary of the Interior's opinion as rendered by Judge Van Devanter states the law of the case, then you don't require any Congressional action of a general character?

Mr. BOYD. No; I think the present laws in regard to it, in fact I think I can state it, that the firm of Kinney, Ballou & McClanahan have stated that the Hawaiian laws in regard to that we have the authority.

Mr. McCLANAHAN. We have rendered such an opinion. Under the present decision of Judge Van Devanter, substantiated by facts, quoting several authorities on the matter, I think it is the Territory that has the right and is in existence at the present time.

Senator THURSTON. Has there been any agreement, express or implied, that the license should issue to the parties represented by Colonel Jones, that is, since the decision of Judge Van Devanter?

Mr. BOYD. No, sir; the government has taken no action in the matter. The bill is still pending before Congress and I don't think it right for the government, Territorial government, to come into the matter until Congress has disposed of it.

Senator THURSTON. Did I understand you to say that it was announced by the governor in Washington and agreed to by yourself that in case this matter came before them for action again that you considered it would be for the best interests to have a public auction with respect to the granting of the license?

Mr. BOYD. I think I have made that statement, Senator.

Senator THURSTON. I think Mr. Boyd gave the committee his views quite fully as to public-land matters, how they should be handled here by the Territorial government instead of living under the land laws of the United States. No question on that point.

Mr. BOYD. I want to make a statement now that the Territorial government—Governor Dole down to the lowest official in his council—has never taken any other interest than of a public character, notwithstanding the reflections cast upon some of the officials. They stand ready before your committee to be investigated, and we are willing to substantiate our remarks by substantial proofs by reputable citizens of this Territory and what are the conditions the government is run

on, that of the broad basis for the public good. There never has been a time when either faction has offered inducements to any of the officials to grant these licenses. Neither has the Parker faction that I know of; neither has the Gehr faction.

Senator THURSTON. Is there any reason, if this matter is left under existing laws for the action of the Territorial officials here, that either party should be preferred, one or the other, or why their claims should be preferred to any others who might want the same rights?

Mr. BOYD. Well, the condition of the government to-day is this, as far as I know it: When the matter was dropped, it was dropped with the understanding that the two factions had made a combination, stated so in open council, and every member in the council, even the governor, understood it. Mr. Ballou stated that they had so far advanced in their agreement tending to that end that they would proceed in consideration of the terms of the license. Of course, when the decision of Assistant Secretary Ryan was received the thing was dropped. That was to do until their action was taken before the governor's council. The letter from Kinney, Ballou & McClanahan addressed to the governor I knew nothing about until very recently.

Senator THURSTON. What I ask Mr. Boyd is this. In this matter as left under existing law to be passed upon anew, and the terms and conditions of the license to be determined by the governor and his council, is there any reason or is there, in fact, any chance that any favoritism will be shown to one party or the other?

Mr. BOYD. No, sir. No favoritism shown either one way or the other that I know of.

Redirect examination:

Mr. MCCLANAHAN. Mr. Boyd, if Congress should hold that the conflicting opinions from the office of the Secretary of the Interior would make it doubtful whether capital would invest anything in a scheme deriving its authority from the local officials, would you not then approve of some action by Congress that would bring about the building of this ditch?

Mr. BOYD. It is apparently that way, yes. Let me say, you were willing to accept the license with the proviso that the approval of the Secretary of the Interior would come at that time, and the uncertainty was greater, and yet the factions—both of them—were willing to accept the conditions and take it for what it was worth.

Mr. MCCLANAHAN. So that you would be willing to waive your objection to this proposed legislation if you thought that thereby you could bring about the accomplishment of the purposes of the company that has the building of the ditch?

Mr. BOYD. Yes, sir.

Mr. MCCLANAHAN. If the other way, you felt that you would deter it.

Mr. BOYD. If it had been made apparent I would say so. I do not want to discuss technical law points. However, I think my conclusion is that the decision of Judge Van Devanter is conclusive, and I think it is not right for any person to criticise the action of anyone in Washington.

Mr. MCCLANAHAN. What is your opinion of Mr. Ryan?

Mr. BOYD. I think that as you did, that it was absolutely prejudiced.

Mr. MCCLANAHAN. We all thought it was conclusive, did we not? If that condition of affairs makes it possible for Congress to make it possible for the investment of capital upon such conflicting decisions as came from the Secretary of the Interior's office would you not support legislation by Congress to bring about the desired result?

Mr. BOYD. You want me to contradict myself. I have already answered that.

Senator THURSTON. You oppose a grant to any particular party?

Mr. BOYD. Yes, sir.

Senator THURSTON. You would oppose just as earnestly Mr. Gehr as you would parties representing the other side?

Mr. BOYD. Yes, sir.

Senator THURSTON. The suggestions of the secretary of this Territory to the Secretary of the Interior in regard to legislation pertaining to the rights of officials to grant water licenses is not now the policy of this government?

Mr. BOYD. Mr. McClanahan knows the conclusions of the government at that time. It is not the policy of the government now.

Senator THURSTON. Since the reversal of that decision Congress does not need to give any further authority to make disposal of licenses except to clear up the question. He favors general legislation to that effect.

Senator BURTON. You think the executive authorities of this Territory should have the right to say when and where a railroad should be built on the islands.

Mr. BOYD. I think, from all local conditions, from other sources, I should think that the executive here is better able to cope with the situation than having it in Washington. The distance is a great disadvantage and rights of way even granted on proper surveys and the granting of public lands particularly.

Senator BURTON. Mr. Boyd, let me explain to you that if the executive council or the governor and his board should have such power it would be the only place in the entire possessions of the United States, unless it be the Philippines, where such power is had. In Arizona the executive can not say where a railroad is to be built. In New Mexico do you think the executive power ought to have the power to say where, when, and who should build a railroad?

Mr. BOYD. I don't think the executive power should have the say of who and when.

Senator BURTON. They have got it now, haven't they?

Mr. BOYD. Yes.

Senator BURTON. Under the decision of Judge Van Devanter?

Mr. BOYD. Yes.

Senator BURTON. You don't want the law changed, do you?

Mr. BOYD. Well, Senator, when we were annexed to the great Union we were annexed with conditions. Those conditions still exist as they existed before annexation. All I want is this: I have made statements to your committee from personal observation of the ground. If you think the land laws of the United States should be made, applied here, I have nothing more to say.

Senator BURTON. I am asking for your judgment, Mr. Boyd. Do you think that the executive authorities should have the right to say who, when, and where a railroad should be built on these islands?

Mr. BOYD. No, sir; Congress first grants a franchise. I suppose a railroad always requires a franchise, but under the grant of Congress the right of way to be approved by the Territorial government here.

Senator BURTON. Do you favor the special grant for building of railroads by Congress?

Mr. BOYD. I did think that the franchise should be given by Congress.

Senator BURTON. Isn't the building of a ditch the same as building of a railroad?

Mr. BOYD. They do not ask for a franchise, they ask for an easement.

Senator BURTON. Is that not a franchise?

Mr. BOYD. No, sir.

Senator BURTON. Is it not?

Mr. BOYD. No, sir.

Senator BURTON. What is it?

Mr. BOYD. This license is to construct a ditch and build a reservoir. Any other company can go immediately above it, or immediately below. Only one company through my franchise; no room for another.

Senator BURTON. But you have not explained the difference between granting right of way for a ditch company and granting the right of way for a railroad company.

Mr. BOYD. We don't contend that we are granting a franchise. We are granting an easement. See Judge Van Devanter on that point. An easement is not a franchise.

Senator BURTON. You grant an easement for a railroad company?

Mr. BOYD. No, sir. Congress grants franchises. The right of way over public lands and the right of way and plans should be approved by the Territorial officers. That is the only thing we have to make proper construction of railroads over the land.

ALEX G. HAWES, Jr., sworn:

Mr. MCCLANAHAN. What is your position in the Territory?

Mr. HAWES. Secretary to the governor.

Mr. MCCLANAHAN. Have you brought certain correspondence with you that has been asked for by the Hawaii Ditch Company?

Mr. HAWES. Yes, sir; all that we have in our possession.

Mr. MCCLANAHAN. Have you brought a letter addressed to the commissioner of public lands, dated January 31, 1901, signed Kinney, Ballou & McClanahan, attorneys for Samuel Parker?

Mr. HAWES. The commissioner of public lands has that letter addressed to the commissioner of public lands.

Mr. MCCLANAHAN. Wasn't it sent; didn't you get it?

Mr. HAWES. That letter was not in my possession.

Mr. MCCLANAHAN. Have you a letter or a copy of a letter addressed to Kinney, Ballou & McClanahan and signed J. F. Brown, commissioner of public lands, dated February 18, 1901?

Mr. HAWES. No; I would not have that letter. None of the letter to the land office are in my possession.

Mr. MCCLANAHAN. A letter from Kinney, Ballou & McClanahan to J. F. Brown, November 18, 1901?

Mr. HAWES. I would not have that in my possession either?

Mr. MCCLANAHAN. Have you a letter dated September 30, 1901, addressed to the Hon. S. B. Dole, with an exhibit marked "A" attached to it?

Mr. HAWES. Yes. The exhibit the governor has in his possession, I think, and I could not get it. He has filed that away. That is the letter, and the exhibit was the first draft of the license made out as I understand, a sort of a draft. That was taken by the governor and it was, I believe, kept by him, or handed back to you for change, or to Mr. Ballou when the matter first came up for consideration.

Mr. MCCLANAHAN. Are you speaking now of the paper that you have just said Governor Dole had in his possession?

Mr. HAWES. I don't know where it is.

Mr. MCCLANAHAN. It was called for in a letter addressed to the governor?

Mr. HAWES. I looked after it and I could not find it in my file.

Mr. MCCLANAHAN. I would like to have Exhibit A.

Mr. HAWES. I will look it up.

Mr. MCCLANAHAN. I offer this in evidence.

Mr. HAWES. These letters being originals, I can furnish copies.

Mr. MCCLANAHAN. I will read the letter.

HONOLULU, HAWAII, September 30, 1901.

Hon. SANFORD B. DOLE,
Governor of the Territory of Hawaii.

SIR: In re water license, district of Kohala, Hawaii. In the original application of Samuel Parker, January 31, 1901, there are many matters which the discussion of parties for months has made irrelevant, and we desire in behalf of Mr. Parker to say that he is willing to accept the license under the terms and conditions to be found in the accompanying draft of license, attached hereto as Exhibit A.

Respectfully, yours,

KINNEY, BALLOU & MCCLANAHAN,
S. M. B.

Attorneys for Samuel Parker.

You will furnish us with Exhibit A?

Mr. HAWES. I don't mean to say I will furnish it. I will try to find it.

Senator BURTON. Who wrote that letter?

Mr. MCCLANAHAN. Mr. Ballou. I will ask Mr. Boyd; he has seen Exhibit A. Is it not a license?

Mr. BOYD. I think it was a plan of a license you submitted.

Mr. MCCLANAHAN. Have you brought with you a letter of October 1, 1901, from our firm? It has already been introduced. It is initialed "S. M. B." Have you a letter of September 3, 1901, addressed to Mr. S. B. Dole, from our firm?

Mr. HAWES. Yes, sir,

Mr. MCCLANAHAN. I will read it:

HONOLULU, HAWAII, September 3, 1901.

Hon. SANFORD B. DOLE, *Governor, Territory of Hawaii.*

DEAR SIR: In the matter of the application of Mr. Samuel Parker for a license to convert, conserve, and use the water on certain lands belonging to the government on the island of Hawaii, in the district of Kohala, and now under lease to Mr. Parker, we beg to request that nothing be done by the government in this matter by way of proposal of the right to use this water or otherwise without first advising us of any such proposed action.

It has become public information that Mr. Cooper proposes leaving Hawaii for Washington on the 17th of this month, and it has been our thought, in view of the present status of matters in this connection, that nothing would be done by the authorities here until Mr. Cooper's return. If you are in a position to advise us definitely whether or no our supposition is correct, we should appreciate it greatly.

Respectfully, yours,

KINNEY, BALLOU & MCCLANAHAN,
S. M. B.

That letter was written by Mr. Ballou. Have you the answer of the governor to that letter, dated September 6—a copy of it?

Mr. HAWES. Yes, sir.

Mr. MCCLANAHAN. I will read it:

SEPTEMBER 6, 1901.

Messrs. KINNEY, BALLOU & MCCLANAHAN, *Hawaii.*

SIRS: I am directed by the governor to acknowledge the receipt of your communication of September 3, in regard to the application of Mr. S. Parker for a license to conserve and use water on certain lands on the island of Hawaii, district of Kohala, and asking that no action be taken in the matter without

advising you of such action, and also asking if your supposition is correct in assuming that nothing would be done in the matter above referred to until Mr. Cooper's return.

I am directed to state that no action will be taken in the matter of the leases of the water rights in the case without due notification being sent you.

I am also directed to advise you that your supposition that nothing would be done by the authorities until after Mr. Cooper's return is not correct.

Very respectfully,

ALEX G. HAWES, Jr.,
Secretary to the Governor.

Was that letter written at the request of the governor by you?

Mr. HAWES. Yes, sir.

Mr. MCCLANAHAN. Have you a letter dated March 25, 1902, from E. B. McClanahan to Hon. Sanford B. Dole?

Mr. HAWES. No.

Mr. MCCLANAHAN. It is a very important letter. I have a copy of it.

Mr. HAWES. These letters were all taken from Mr. Boyd's list.

Mr. BOYD. That letter was missing. It came just before he left for the States.

Mr. MCCLANAHAN. I ask permission, then, to introduce a copy. Have you a copy of a letter addressed to the Secretary of the Interior by Acting Governor Cooper, dated May 22, 1901, and the reply, dated June 14, 1901.

Mr. GEHR. That letter is on the record, page 23, and the Secretary's reply is on page 25.

Mr. MCCLANAHAN. "Several months ago an application was made——"

Senator MITCHELL. No need to read anything that is already on the record.

Mr. MCCLANAHAN. Have you a letter addressed to the governor of Hawaii dated September 11, 1901, signed Thomas Ryan, Acting Secretary?

Mr. HAWES. Yes.

Mr. GEHR. That is in the record, pages 26 and 27.

Mr. MCCLANAHAN. Mr. Hawes, were you in the room of the governor when I made him a visit prior to his last departure to the States relative to this Hawaii Ditch Company's bill?

Mr. HAWES. I don't remember.

Mr. MCCLANAHAN. I don't remember either.

Mr. HAWES. If you mention the subject brought up——

Mr. MCCLANAHAN. The subject was the opposition of the governor and what he wanted, opposition to the bill as it stood.

Mr. HAWES. No; I was not there.

C. W. BOOTH, sworn:

Senator MITCHELL. Are you a resident of Hawaii?

Mr. BOOTH. Yes.

Senator MITCHELL. Born here?

Mr. BOOTH. Yes.

Senator MITCHELL. How old are you?

Mr. BOOTH. Thirty-five.

Mr. MCCLANAHAN. Are you the owner of land known as Laupahoe-hoe, on the island of Hawaii, that has been talked of in this hearing?

Mr. BOOTH. Yes.

Mr. MCCLANAHAN. Will you state the character of the land?

Mr. BOOTH. The character of the land runs to the sea and joins

Puukapu, Mr. Parker's land. It runs up about 4 miles, I think, from the sea right in a straight direction in the mountains and joins Puukapu, Mr. Parker's land. There are four or five large gulches of water irrigating some of that taro land and then run into the sea. I think its height is about 5,000 or 6,000 feet above the sea level.

Mr. McCLANAHAN. This land of yours traverses the district through which this ditch is proposed to be built?

Mr. BOOTH. Yes; takes it straight in, joins Puukapu and runs right down to the sea and over to Waipio on the other side of my land.

Senator FOSTER. Is there a reservoir?

Mr. BOOTH. Just water running down.

Senator FOSTER. How much land?

Mr. BOOTH. Two thousand three hundred acres.

Mr. McCLANAHAN. Who controls this water now; who has the right to control this water on your land now?

Mr. BOOTH. I own it.

Mr. McCLANAHAN. Have you done anything with that?

Mr. BOOTH. Well, yes; I have made an agreement to convey to Mr. Parker.

Mr. McCLANAHAN. In force?

Mr. BOOTH. In force.

Mr. McCLANAHAN. Does it give him the right to build ditches on your land to conserve the water?

Mr. BOOTH. Yes.

Mr. McCLANAHAN. Is it in your power to cancel that agreement now?

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Senator MITCHELL. Is this agreement in the record?

Mr. BOOTH. I don't know; I have only made one agreement.

Senator MITCHELL. Your testimony was not taken at Washington?

Mr. BOOTH. No, sir.

Mr. McCLANAHAN. You have renewed the original option agreement, have you?

Mr. BOOTH. Yes, sir.

Mr. McCLANAHAN. The one here expired last May?

Mr. BOOTH. Yes.

Mr. McCLANAHAN. Is that the instrument by which the agreement was renewed?

Mr. BOOTH. Yes; that is the instrument.

Mr. McCLANAHAN. I will read it.

HONOLULU, OAHU, HAWAII, May 6, 1902.

SAMUEL PARKER, of Honolulu, and

Messrs. KINNEY, BALLOU & McCLANAHAN, Attorneys:

We, the undersigned, Elizabeth K. Booth, wife of Charles W. Booth, of Kohala, and the said Charles W. Booth, hereby renew for a term of one year from the 8th day of May, 1902, the option granted to you by an instrument dated May 8, 1901, and a copy of which instrument is hereby annexed.

ELIZABETH K. BOOTH.
CHARLES W. BOOTH.

Mr. BOYD. Mr. Booth, you made a statement that your land run from the sea to Mr. Parker's land?

Mr. BOOTH. Joins Puukapu on the other side.

Mr. BOYD. Do you know for a fact that he owns this land?

Mr. BOOTH. I know it is supposed to be his land. I have always thought it was his.

Mr. BOYD. You have never known it is public land?

Mr. BOOTH. No; I have always heard it was Mr. Parker's.

Mr. BOYD. I would inform you it is public land leased to Mr. Parker as stated by Mr. McClanahan. You also say that there is 100,000,000 gallons of water there?

Mr. BOOTH. I have never had it measured, but it seems to me that would be the quantity of water there. The exact measurement I don't know.

Senator FOSTER. That is your opinion?

Mr. BOOTH. That is my opinion. One large gulch of water comes down, big as this room. It would crush any person that got underneath it.

Senator FOSTER. Continuous flow?

Mr. BOOTH. Yes. You can see these places in Kohala; see the water coming down the ravines.

Mr. McCLANAHAN. I would like to say to Mr. Boyd and the attorney for the other side, the Commission will have an opportunity of having a view of the water that Mr. Booth speaks of if they pass that land in daylight, which they probably will do when they go to Hilo.

Mr. BOYD. Permit me to say I am not attorney for anybody. I am attorney for the government. Mr. Booth made a mistake.

Mr. BOOTH. Beg pardon. From what I have heard, Mr. Parker wants to have his own water with mine and convey it to Kohala. Of course I don't know anything about it, but it seems to me—I can't understand how anyone else can be interested in the affair.

Col. SAMUEL PARKER, sworn.

Mr. McCLANAHAN. Colonel, will you please state to the commission what led you to consider the advisability of talking union or consolidation with these interests, with the Gehr-Jones combination? What led you to a consideration of it?

Colonel PARKER. Well, I had good reason to believe that they had the inside of me on that question with the Government, so I thought that if we could come together—my reason was to see what I could get out of it.

Mr. McCLANAHAN. Were you present at a meeting at the bungalow on Sunday morning in September, I think, 1901, at which—

Colonel PARKER. I think at that time. I can't say the date, but I remember the meeting.

Mr. McCLANAHAN. Mr. Jones—Colonel Jones—was there, the two Gehrs, and myself?

Colonel PARKER. Colonel Jones, the two Gehrs, and you, if I am not mistaken; yes, I know.

Mr. McCLANAHAN. What were the inducements which they held out to us at that time for consolidation?

Colonel PARKER. Well, I had a meeting. I might go a little further back. I think—indeed, if I am not mistaken—in fact, we came down from Hawaii together, Mr. Gehr and I, and I think I spoke to him then. I had got information in Hawaii. He was up there measuring water. He had got permission to go on my lands. I approached him, saying we would like to have a talk. I approached him and said I would like to have a talk.

Mr. McCLANAHAN. What led you to approach them?

Colonel PARKER. Well, because I have thought, as I said before, that the chances of getting that license—chance of getting that water—they had a better chance than I had.

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Puukapu, Mr. Parker's land. It runs up about 4 miles, I think, from the sea right in a straight direction in the mountains and joins Puukapu, Mr. Parker's land. There are four or five large gulches of water irrigating some of that taro land and then run into the sea. I think its height is about 5,000 or 6,000 feet above the sea level.

Mr. MCCLANAHAN. This land of yours traverses the district through which this ditch is proposed to be built?

Mr. BOOTH. Yes; takes it straight in, joins Puukapu and runs right down to the sea and over to Waipio on the other side of my land.

Senator FOSTER. Is there a reservoir?

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Senator FOSTER. How much land?

Mr. BOOTH. Two thousand three hundred acres.

Mr. MCCLANAHAN. Who controls this water now; who has the right to control this water on your land now?

Mr. BOOTH. I own it.

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Mr. BOOTH. Well, yes; I have made an agreement to convey to Mr. Parker.

Mr. MCCLANAHAN. In force?

Mr. BOOTH. In force.

Mr. MCCLANAHAN. Does it give him the right to build ditches on your land to conserve the water?

Mr. BOOTH. Yes.

Mr. MCCLANAHAN. Is it in your power to cancel that agreement now?

Senator THURSTON. The agreement shows for itself. The agreement is in force.

Senator MITCHELL. Is this agreement in the record?

Mr. BOOTH. I don't know; I have only made one agreement.

Senator MITCHELL. Your testimony was not taken at Washington?

Mr. BOOTH. No, sir.

Mr. MCCLANAHAN. You have renewed the original option agreement, have you?

Mr. BOOTH. Yes, sir.

Mr. MCCLANAHAN. The one here expired last May?

Mr. BOOTH. Yes.

Mr. MCCLANAHAN. Is that the instrument by which the agreement was renewed?

Mr. BOOTH. Yes; that is the instrument.

Mr. MCCLANAHAN. I will read it.

HONOLULU, OAHU, HAWAII, *May 6, 1902.*

SAMUEL PARKER, of Honolulu, and

Messrs. KINNEY, BALLOU & MCCLANAHAN, Attorneys:

We, the undersigned, Elizabeth K. Booth, wife of Charles W. Booth, of Kohala, and the said Charles W. Booth, hereby renew for a term of one year from the 8th day of May, 1902, the option granted to you by an instrument dated May 8, 1901, and a copy of which instrument is hereby annexed.

ELIZABETH K. BOOTH.
CHARLES W. BOOTH.

Mr. BOYD. Mr. Booth, you made a statement that your land run from the sea to Mr. Parker's land?

Mr. BOOTH. Joins Puukapu on the other side.

Mr. BOYD. Do you know for a fact that he owns this land?

Mr. BOOTH. I know it is supposed to be his land. I have always thought it was his.

Mr. BOYD. You have never known it is public land?

Mr. BOOTH. No; I have always heard it was Mr. Parker's.

Mr. BOYD. I would inform you it is public land leased to Mr. Parker as stated by Mr. McClanahan. You also say that there is 100,000,000 gallons of water there?

Mr. BOOTH. I have never had it measured, but it seems to me that would be the quantity of water there. The exact measurement I don't know.

Senator FOSTER. That is your opinion?

Mr. BOOTH. That is my opinion. One large gulch of water comes down, big as this room. It would crush any person that got underneath it.

Senator FOSTER. Continuous flow?

Mr. BOOTH. Yes. You can see these places in Kohala; see the water coming down the ravines.

Mr. MCCLANAHAN. I would like to say to Mr. Boyd and the attorney for the other side, the Commission will have an opportunity of having a view of the water that Mr. Booth speaks of if they pass that land in daylight, which they probably will do when they go to Hilo.

Mr. BOYD. Permit me to say I am not attorney for anybody. I am attorney for the government. Mr. Booth made a mistake.

Mr. BOOTH. Beg pardon. From what I have heard, Mr. Parker wants to have his own water with mine and convey it to Kohala. Of course I don't know anything about it, but it seems to me—I can't understand how anyone else can be interested in the affair.

Col. SAMUEL PARKER, sworn.

Mr. MCCLANAHAN. Colonel, will you please state to the commission what led you to consider the advisability of talking union or consolidation with these interests, with the Gehr-Jones combination? What led you to a consideration of it?

Colonel PARKER. Well, I had good reason to believe that they had the inside of me on that question with the Government, so I thought that if we could come together—my reason was to see what I could get out of it.

Mr. MCCLANAHAN. Were you present at a meeting at the bungalow on Sunday morning in September, I think, 1901, at which—

Colonel PARKER. I think at that time. I can't say the date, but I remember the meeting.

Mr. MCCLANAHAN. Mr. Jones—Colonel Jones—was there, the two Gehrs, and myself?

Colonel PARKER. Colonel Jones, the two Gehrs, and you, if I am not mistaken; yes, I know.

Mr. MCCLANAHAN. What were the inducements which they held out to us at that time for consolidation?

Colonel PARKER. Well, I had a meeting. I might go a little further back. I think—indeed, if I am not mistaken—in fact, we came down from Hawaii together, Mr. Gehr and I, and I think I spoke to him then. I had got information in Hawaii. He was up there measuring water. He had got permission to go on my lands. I approached him, saying we would like to have a talk. I approached him and said I would like to have a talk.

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Colonel PARKER. Colonel Jones, the two Gehrs, and you, if I am not mistaken; yes, I know.

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Mr. McCLANAHAN. What led you to approach them?

Colonel PARKER. Well, because I have thought, as I said before, that the chances of getting that license—chance of getting that water—they had a better chance than I had.

Mr. McCLANAHAN. Go on.

Colonel PARKER. We had a meeting, and before we had our meeting—I think it was at the bungalow—we talked about it a little, and they wanted my idea, if I am not mistaken from something Mr. Gehr spoke this morning. I said I would like to see if we could come together. That was my reason. Of course, I did not tell them. I said I wanted to come together and make some combination, but I don't want to do it by myself, and if they would wait until to-morrow I would like to have Mr. McClanahan see what it is. That took place that Sunday afternoon—I think it was. I believe you did most of the talking for the next time. I understood from Mr. Jones if we could join together the place would not be put up at auction. You asked what assurance, what guarantee there was. Mr. Jones would not exactly give us a guarantee. He said he was pretty sure he could get that license without being put up at auction.

Mr. McCLANAHAN. Was it on that occasion that I made the statement regarding one of the officials of this Territory.

Colonel PARKER. I think you did.

Mr. McCLANAHAN. In that connection?

Colonel PARKER. I think you did.

Mr. McCLANAHAN. Have you ever signed any agreement with Mr. Jones or Mr. Gehr or anyone to consolidate your interests with others?

Colonel PARKER. We talked about it considerably. I left before signing that—that agreement that was spoken of.

Mr. McCLANAHAN. Before leaving, did you leave the matter of signing to anyone?

Colonel PARKER. I had given Mr. Wundenburg my power. The document was given to me the night before I left. I left it over at Mr. Wundenburg's, and I said to look it over and advise me to-morrow morning what to do—whether he thought it would be right for me to sign it. I let him have the document that night, and the next morning we met and he advised me not to sign it. I said, "I am going away. You go up to McClanahan's office, and Ballou is there, and talk it over, and do whatever you think is best for me, for my interest."

Mr. McCLANAHAN. Do you know what Mr. Wundenburg did?

Colonel PARKER. I knew after I got back. He wrote me he did not sign this and this and that, but did not sign it anyway.

Mr. GEHR. Mr. Parker, did you tell Colonel Jones or my brother or me the morning of the day you left that Mr. Wundenburg had advised you not to sign that contract?

Colonel PARKER. Well, I was in such a hurry. I told you to go see Mr. Ballou.

Mr. GEHR. You didn't tell us he had advised you already not to sign it?

Colonel PARKER. I might or might not.

Mr. GEHR. Do you remember whether you did or not?

Colonel PARKER. No; I could not say. I think I told you I would see Wundenburg. He told me not to sign. He held my power of attorney, and I think I told you I would abide by his decision.

Mr. GEHR. Didn't you state, Colonel, that morning before you left, that if the paper which was handed to you correctly stated the terms of the agreement that we had made, that you would sign it as soon as Mr. Ballou signed it?

Colonel PARKER. No, no. I could not have told you, because the document I had left with Mr. Wundenburg. I might have mentioned

to you if Mr. Wundenburg came down at the last minute, which he did, or Ballou, that I would sign if they said it was all right.

Mr. GEHR. Didn't you say you were going, or you would sign as soon as Mr. Ballou signed?

Colonel PARKER. Well, I don't know. If I got that paper—I might have told you that Ballou would bear me out—I am going to take it to Wundenburg. I didn't want to sign any paper until I was sure of it. If he said all right, I would sign.

Mr. GEHR. Didn't you say that if the paper contained the agreement which we made with you before and Mr. Ballou signed you would sign?

Colonel PARKER. I don't think I said that. I might have. I told you I would go out and see Wundenburg, or talk it over with my attorney.

Mr. GEHR. You don't know whether you made that statement?

Colonel PARKER. I don't know whether I made it or not. I might have before the conclusion of talking it over with Wundenburg.

Mr. GEHR. Were you present at a meeting of the governor and heads of departments early in September?

Colonel PARKER. There were so many meetings. Some I was there and some I was not.

Mr. GEHR. Were you present at the office one Saturday night, when Mr. Ballou, Mr. McClanahan, Colonel Jones, and myself were present?

Colonel PARKER. Yes, sir; I think I was; several meetings.

Mr. GEHR. One meeting Saturday night?

Colonel PARKER. Yes; several meetings.

Mr. GEHR. Do you remember how that meeting came to be called?

Colonel PARKER. Well, I could not recollect it, but I know we had an understanding. We did try to pull together. I don't want to go back of that. Provided you had some assurance that you could get the license, I was not doing it for your money, or for the control you had, but on your power with the inside that you had; that was my idea of getting in with you, and Ballou's too. We talked together and we meant to go in with you providing you did your part. Before I went away there was no license, and I declared everything off.

Mr. GEHR. When did you declare everything off?

Colonel PARKER. As far as we are concerned—

Mr. GEHR. When?

Colonel PARKER. Well, because you did not keep your part. You was going to have this and that and something else. I got the drop on you, and I didn't think you was sincere.

Mr. GEHR. When was it you declared everything off?

Colonel PARKER. Well, when I saw that there was no chance, in fact, that I left, I told my agent or attorney, "If the thing—if you think it is not right I will call it off." He told me it was not right, not to sign it, and I declared the thing off then.

Mr. GEHR. To your attorney?

Colonel PARKER. Mr. Wundenburg, I mean my power of attorney.

Mr. GEHR. Did you call everything off, as you say, to the governor?

Colonel PARKER. What; to the governor?

Mr. GEHR. Did you declare everything off to the governor?

Colonel PARKER. No; I didn't go to the governor.

Mr. GEHR. You didn't?

Colonel PARKER. I never saw the governor that morning. I saw Mr. McClanahan and I asked him if he had signed and he said no, he

had not signed. Then I said, "Call it off as far as I am concerned," with this document of yours.

Mr. GEHR. Do you know, as a matter of fact, that after you left on the 18th of December that almost daily conferences—that your attorney, Mr. Wundenburg, and your associates, Mr. McClanahan and Mr. Ballou, met together for the issuance of that license in the name of J. M. Jones?

Colonel PARKER. I did not know it until afterwards.

Mr. GEHR. You know it now?

Colonel PARKER. I said that whatever my attorney did was all right?

Mr. GEHR. I thought you said a moment ago that everything was off.

Colonel PARKER. As far as I was concerned—my attorney and myself—as far as I am concerned, I am going away. I don't want to bother with it. He could do as he liked.

Mr. GEHR. Don't you know, as a matter of fact, that your attorney did appear for you, requesting the issuance of the license to John Walter Jones?

Colonel PARKER. Certainly. I found it out after I got back. I saw it in the paper before I got back.

Mr. GEHR. Do you know, as a matter of fact, that your attorney up to the very day when the decision of Mr. Ryan was received was asking for the issuance of that same license to John Walter Jones?

Colonel PARKER. As I said before—

Mr. GEHR. You know that to be a fact?

Colonel PARKER. I don't recollect now. I left it to him. I left full power of attorney to act for me.

Mr. GEHR. After this meeting, which took place at the office of Kinney, Ballou & McClanahan that Saturday night, and lasted until so late—at that meeting is it not a fact that considerable time was taken up discussing the question as to whether you should have the controlling interest or whether we should have the controlling interest?

Colonel PARKER. Yes; I remember—a good deal of time. I could not say particularly now.

Mr. GEHR. Is it not a matter of fact you and Mr. McClanahan and Mr. Ballou left the office and went to a retiring room considering the question, and came back and accepted the terms which we had been talking over—that is, we were to have 51 per cent and you 49?

Colonel PARKER. There was a great deal of talk. You say I accepted. I did not accept, because I did not sign anything. I said I wanted the thing drawn up and given to my lawyers to decide before I signed anything.

Mr. GEHR. Is it not a matter of fact that you accepted these terms?

Colonel PARKER. I may have accepted them. You were running in the room and out. I always meant the proviso that I wasn't going to sign anything in black and white until my attorney saw it.

Mr. GEHR. If you didn't want to do anything then—one minute—at the next meeting of the executive council, after this time with Kinney, Ballou, and McClanahan, did you come to the executive meeting with the rest—that is, with Mr. Ballou?

Colonel PARKER. Mr. Ballou, my attorney.

Mr. GEHR. And he appeared before the executive council? Did Mr. Ballou withdraw the application which you had filed with the governor for that license?

Colonel PARKER. Well, he made some statement about withdrawing it?

Mr. GEHR. Didn't he ask to withdraw it?

Colonel PARKER. Well, whatever it is, it is on record. He was there, and he made a statement for me—that is, for our ditch company. I could not recall what words he used.

Mr. GEHR. Didn't he state to the governor that we had came to an agreement; that we had decided to join our forces and work together?

Colonel PARKER. Well, if you come right down to it, the governor asked if we would join pools, and we would have the license without being sold, without being put up at auction. I had some private meetings with the governor myself. That was brought out afterwards in executive meeting. He said, "Parker, if you folks get together and make some agreement, we don't have to put it up at auction, but if you insist upon it the law is that it has got to be put up at public auction."

Mr. GEHR. Is it not a fact that Mr. Ballou asked to withdraw the application?

Colonel PARKER. I think he has. I would not want to swear. I think it was in a session they have on record. Whatever he said must be on record. I would not want to come here and say I heard him say this and say that. I never expected to be here and have to answer questions. Whatever Ballou said is on record at the council.

Mr. GEHR. Colonel Parker, did you receive a letter which I wrote you from Chicago?

Colonel PARKER. I think I did.

Mr. GEHR. Did you reply to it?

Colonel PARKER. I opened it, and when I saw it was from you I tore it up. I didn't want to have anything to do with you. I received it at the Arlington Hotel. I didn't take the trouble to read it.

Senator THURSTON. You had an agreement with some other gentleman in reference to your proposition for constructing this ditch—a partnership agreement, under which you were joined together?

Colonel PARKER. Yes. That is, I say, an agreement—well, it was as much an agreement as talking about it.

Senator THURSTON. Wasn't it in writing with Mr. Ballou?

Colonel PARKER. Before I left it was drawn up.

Senator THURSTON. In writing?

Colonel PARKER. I suppose that is the agreement you mean. It was handed to my lawyer. I said I would not sign anything—

Mr. MCCLANAHAN. He is off the track.

Senator THURSTON. I mean an agreement between yourself and Mr. Ballou and others in which you agreed to join together in this ditch scheme, and each take a certain interest.

Colonel PARKER. Yes; if that is the one you mean.

Mr. MCCLANAHAN. Ballou and McCrosson?

Colonel PARKER. Yes.

Senator THURSTON. Was that in writing?

Colonel PARKER. Yes.

Senator THURSTON. And you advised Mr. Gehr and his associates that there was such an association and that you each had an interest?

Colonel PARKER. Well, I think I told them. I don't when we met; at the bungalow I told them before I say anything I would like to have one of my associates; I think were the word I used.

Senator THURSTON. Have you got that agreement?

Colonel PARKER. I have not got it.

Senator THURSTON. A copy of it—can you get it?

Colonel PARKER. I think so. I think McClanahan has it, or Ballou.

Mr. MCCLANAHAN. I have my copy, Colonel.

Senator THURSTON. Any objection?

Mr. MCCLANAHAN. I will read it over, and if I find nothing objectionable, I would be very glad to do so. I understand your idea to see if one associate could act for the other.

Senator THURSTON. It has been referred to. I want it in for whatever it is worth.

Mr. MCCLANAHAN. It is immaterial for that purpose. It is only material to establish what you claim to be a contract.

The committee adjourned to 8.15 p. m. at the Hawaiian Hotel.

THURSDAY, September 11, 1902—8.15 p. m.

ARTHUR C. GEHR, recalled:

Mr. MCCLANAHAN. I should like to ask Mr. Gehr one question. Mr. Gehr, are you an American citizen?

Mr. GEHR. I am.

Mr. MCCLANAHAN. By naturalization?

Mr. GEHR. By birth in Chicago.

Mr. MCCLANAHAN. You spoke of taking out—apply here for citizenship in the Territory. I don't know exactly what you meant.

Mr. GEHR. I announced my intention to become a citizen of the Territory of Hawaii. I understand from the organic act one year's residence is necessary.

Mr. MCCLANAHAN. To whom did you announce your intention?

Mr. GEHR. Generally to people whom I met.

Mr. MCCLANAHAN. No legal formality?

Mr. GEHR. None whatever.

Senator THURSTON. Mr. Gehr, while you are on the stand. That letter written to Colonel Parker while you were in Chicago, in 1901, have you a copy of that letter?

Mr. GEHR. I have.

Senator THURSTON. Is that a copy of the letter?

Mr. GEHR. Exact copy.

Senator THURSTON. I will offer that as part of Mr. Gehr's testimony. (Received and marked "Exhibit E.") Did you receive any answer to that?

Mr. GEHR. None whatever.

Mr. THURSTON. That is all.

Col. J. W. JONES, sworn.

Mr. MCCLANAHAN. How long have you lived here, Colonel?

Colonel JONES. Thirteen years this month.

Mr. MCCLANAHAN. What is your business?

Colonel JONES. Stenographer of the circuit court.

Mr. MCCLANAHAN. In the employ of the Territorial government?

Colonel JONES. I am.

Mr. MCCLANAHAN. How long have you been employed by the Territorial government?

Colonel JONES. During my residence here.

Mr. MCCLANAHAN. Do you hold any other Territorial or governmental position?

Colonel JONES. Colonel of the First Regiment of National Guards.

Mr. MCCLANAHAN. Are you on the governor's staff?

Colonel JONES. I am not.

Mr. MCCLANAHAN. You have heard mentioned in the hearing here a conversation that took place between yourself and associates and myself and Colonel Parker in the Bungalow; do you recall the meeting?

Colonel JONES. I do.

Mr. MCCLANAHAN. Will you please state to the commission what inducements were held out by you to the Parker interests for a consolidation of the two interests?

Colonel JONES. Nothing other than the expenditure of money by us and our belief that we had proved that the scheme was a feasible scheme, as we were so advised by our engineers.

Mr. MCCLANAHAN. We represented that the scheme was feasible ourselves, did we not?

Colonel JONES. You so represented.

Mr. MCCLANAHAN. Then the inducement was the expenditure by you of some \$7,000 in making these surveys?

Colonel JONES. It was the result of the expenditure which was shown by our engineers in maps and figures.

Mr. MCCLANAHAN. And you offered that as against Mr. Parker's interest up there?

Colonel JONES. That is correct.

Mr. MCCLANAHAN. Did you tell the colonel or myself at that time what these surveys and maps were that you had, that you wanted to offer against our interests?

Colonel JONES. In a general way, as well as a layman could state his belief in the matter?

Mr. MCCLANAHAN. You didn't show anything?

Colonel JONES. I did not.

Mr. MCCLANAHAN. You stated the price, did you not, that the matter had cost you?

Colonel JONES. The approximate price.

Mr. MCCLANAHAN. Is that all of the inducements that you held out from your side for the coalition of the interests?

Colonel JONES. That is all that we held out. That is all we had to offer. There was another matter, though; I don't know that it can be claimed that it was an inducement; it was the matter of the franchise being put up at auction, which was stated by you in this way, as I believe: Mr. Ballou believed that no franchise would be granted as long as our interests were opposed to one another, without it being put up at auction; that, therefore, you had been very certain of the franchise being granted without that franchise being put up at public auction. I don't know whether the matter of the auction of the license was first brought up by you or by me, but it was generally discussed there and it was my belief at that time and is to-day as of that time.

Mr. MCCLANAHAN. My question was, Was there any other inducement, Colonel? Was that an inducement?

Colonel JONES. None moving from us to you.

Mr. MCCLANAHAN. No inducement?

Colonel JONES. None. I merely mention this because it was brought out in the testimony to-day at the naval station, which I heard.

Mr. MCCLANAHAN. But you do admit at that conversation that the question of the inadvisability of putting up this license at auction was discussed?

Colonel JONES. It was.

Mr. MCCLANAHAN. In that discussion did I not ask you a question to the effect as follows: Is not a certain official [naming him] interested in your scheme?

Colonel JONES. You put it in this way, as I recollect it: Is not Mr. Boyd interested in this matter?

Mr. MCCLANAHAN. With you?

Colonel JONES. Implying as much. Whether you used those words I do not recollect now.

Mr. MCCLANAHAN. What was the occasion of my asking you that question?

Colonel JONES. You will have to answer that yourself, sir. I do not know.

Mr. MCCLANAHAN. It was a strange question as you looked at it, then?

Colonel JONES. I didn't think it was a strange question coming from you, because I have known you in court for years. It did not surprise me.

Mr. MCCLANAHAN. Is that the answer you want on the record?

Colonel JONES. The answer on the record. It would apply to any other member of your profession, generally speaking.

Mr. MCCLANAHAN. I don't quite catch your meaning.

Colonel JONES. In other words, the profession is very shrewd and very cautious.

Mr. MCCLANAHAN. How does that denote caution on my part?

Colonel JONES. I don't know that I care about going into that.

Mr. MCCLANAHAN. Didn't you say that you would guarantee, or use some expression having the same meaning, that if we would unite our schemes that you would see that the matter would not be put up at public auction?

Colonel JONES. I did not and never intimated it in any way, especially in the form that I could guarantee anything of the kind. You asked me what reason I had to believe that if we combined that the matter would not be put up at public auction.

Mr. MCCLANAHAN. And your answer?

Colonel JONES. My answer, I could give no reason, but that was my belief. I am willing to state my reasons. I did not state them at the time.

Mr. MCCLANAHAN. I ask you state your reasons.

Colonel JONES. The reason I refused to do so was that my belief at that time was due to the fact that I had asked the secretary of the Territory with reference to the matter. He told me that he was opposed to the first license that you had applied for being issued without being put up at public auction and was likewise being put up to us. If we combined, I drew the inference from what he said to me at that time that the government—that is, the governor and his council, of which, I understand, Mr. Cooper was not a part when the governor was present—was not favorable to issuing the first license to Mr. Parker and was in all likelihood in favor of issuing a license to us if we combined. That was the ground upon which I pinned that belief.

Mr. MCCLANAHAN. Don't you know that Governor Dole was not here when we made our application for Mr. Parker originally—had nothing to do with that application and license itself drafted in the first instance? It was drafted under Secretary Cooper.

Colonel JONES. I don't know that; I was not a party to it, and had no means of knowing it other than what I have obtained from the record, having read over some of these proceedings.

Mr. MCCLANAHAN. What is your idea now as the proper procedure—the proper course to be taken in the matter?

Colonel JONES. My idea; in what way?

Mr. MCCLANAHAN. Well, as to legislation touching ditch matters.

Colonel JONES. I have nothing to suggest in that way at all.

Mr. MCCLANAHAN. What does—haven't you and your associates any idea on the matter, any plan which you would like to suggest to the commission?

Colonel JONES. I think it would be presumption on my part.

Mr. MCCLANAHAN. They are here to hear suggestions.

Colonel JONES. I am here to state facts as I know them.

Mr. MCCLANAHAN. Are you interested in the Gehrscheme financially?

Colonel JONES. Financially.

Mr. MCCLANAHAN. Under a contract?

Colonel JONES. Under an agreement.

Mr. MCCLANAHAN. Have you an agreement?

Colonel JONES. Yes. The agreement is not in writing.

Mr. MCCLANAHAN. State, if you can, what that agreement is.

Colonel JONES. On equal interests with Messrs. Gehr.

Mr. MCCLANAHAN. Did they require of you certain services?

Colonel JONES. Whatever services I could perform toward forwarding the undertaking. That is all.

Cross-examination:

Senator THURSTON. Colonel, you are official stenographer of the circuit court here?

Colonel JONES. Of the circuit court of the first circuit.

Senator THURSTON. From whom do you receive your appointment?

Colonel JONES. I received my commission from Judge Humphreys, since resigned.

Senator THURSTON. It does not come from the governor or any member of his council?

Colonel JONES. It does not.

Senator THURSTON. You are also colonel of the First Regiment of National Guards?

Colonel JONES. Yes, sir.

Senator THURSTON. How is the colonel appointed?

Colonel JONES. By the line officers of the regiment by election and commissioned then by the governor.

Senator THURSTON. It was stated in Washington, I think, before both committees that you held five different salaried offices. Do you recollect any other office that you hold?

Colonel JONES. That the only office I receive pay for, sir, is the salary of stenographer of the circuit court. There is no salary as colonel, no salary since my incumbency; there is only a salary when the regiment is in actual service, during the plague time and during the unpleasantnesses of 1893 and 1895.

Senator THURSTON. Who took the initiative in bringing about conferences between the two applicants for a license with a view of joining forces?

Colonel JONES. It was brought to my attention by Mr. Gehr that Mr. Parker wished to talk with us. We met, I believe, on Saturday afternoon at the Bungalow, and met the next day; that is, Mr. Parker met us at that time, and the next day he brought Mr. McClanahan along and Captain Ross, his name having been suggested to-day; I have a vague recollection of his having been present at a meeting; whether it was that second meeting or not I don't know. We agreed to consider the proposition of coming together, each one to be interested to the extent of 50 per cent.

Senator THURSTON. What was the result of that meeting?

Colonel JONES. Either Mr. McClanahan or Mr. Ballou, in the courthouse, stated to me a few days thereafter that that had fallen through for this reason, that they did not believe if we combined we would be in any better position toward having the license issued to us, without being put up at public auction, than if we remained separate.

Senator THURSTON. What was the next meeting had between you in which negotiations were carried on?

Colonel JONES. The next meeting was shortly thereafter, exactly when, I don't recollect, but it came about in this way: Mr. Gehr and myself, I think Mr. Arthur Gehr—one of the Gehrs—met Mr. Parker at Hobron's corner, and at that corner of King and Fort streets Mr. Parker brought the matter up again and wanted us to go into it. We refused at that time to go into the matter, stating that our belief was it would come to naught, as we understood that Mr. McClanahan and Mr. Ballou were so firmly convinced that nothing could be accomplished by our coming together toward getting the license without its being put up at public auction, we did not care to discuss the matter any further. Mr. Parker said that he had something to say with regard to the coming together and intended to assert himself and would like to have us give our consent to a meeting he would bring about. We consented to meet, and that was the meeting that Mr. Gehr spoke about at which the first draft, or from which the first draft of the agreement, arose.

Senator THURSTON. Had that meeting reached a full and complete verbal understanding and agreement as to what you would do in the way of joining of forces?

Colonel JONES. I believe it to be a complete understanding, except as to details, in this, that we were to have 51 per cent and control and they were to take 49 per cent.

Senator THURSTON. In pursuance of that agreement, what action was taken before the council?

Colonel JONES. Mr. Ballou stated before the council——

Senator THURSTON. Were you present?

Colonel JONES. I was.

Senator BURTON. Was the agreement he speaks of in writing?

Colonel JONES. No.

Senator BURTON. Two agreements, one in writing and one verbal?

Colonel JONES. No; I asked him if——

Senator THURSTON. What took place at the council in pursuance of that agreement?

Colonel JONES. Mr. Ballou stated that we had come together and that it was now merely a question of detail, and for that reason he wished to withdraw the application of Mr. Parker. He was then asked by the governor whether or not Mr. Parker's application would be void, or whether or not there would be another application made by him, and Mr. Ballou stated that no further application would be made by Mr. Parker.

Senator THURSTON. What did Mr. Ballou say to the governor's council in the way of asking them to approve and grant your proposed license?

Colonel JONES. He stated that nothing further stood in the way of the governor and his council getting down immediately to the question of the license and its terms, and suggested that we proceed at once with that.

Senator THURSTON. Were various meetings had until you perfected at the council the terms of the proposed license?

Colonel JONES. There were.

Senator THURSTON. Did you see Mr. Parker the morning he left Hawaii that summer?

Colonel JONES. I did.

Senator THURSTON. About the 18th of September, 1901?

Colonel JONES. I did.

Senator THURSTON. Will you state what conversation took place between Mr. Parker and yourself and others who may have been with you?

Colonel JONES. Mr. Parker stated that if the agreement which he was to submit to his attorney—I learned that morning that he had reference to Mr. Wundenburg, who held his power of attorney—had not been fully considered by Mr. Wundenburg, as he had not had time to fully consider it, that he would go and see him.

Senator THURSTON. Were there any other conversations took place between you that morning?

Colonel JONES. I think that the conversations to which your question is directed, Senator, was the afternoon before, at which time, if my recollection serves me right, Mr. Parker took a copy of the agreement to give to Mr. Wundenburg. At that time he stated that if Mr. Wundenburg found the agreement to be as Mr. Parker understood it, Mr. Parker read it over in my presence, that he, Mr. Parker, would sign it if he was advised by Mr. Wundenburg that it contained the agreement that he had come to with us.

Senator THURSTON. At any time before leaving on that trip did he intimate to you or your associates in any manner that he had no intention of carrying out the agreement?

Colonel JONES. He did not.

Senator THURSTON. Up to the time that he left was any intimation or notice received by yourself or associates, or any of the other interested parties, that there was any purpose of not carrying out the agreement and proceeding as you had made arrangements to do?

Colonel JONES. Not to my knowledge.

Senator THURSTON. Colonel Jones, so far as you know, was there any reason or any facts existing that would give you or your associates any more favorable consideration by the governor and his council than any applicant for a license would receive?

Colonel JONES. I know of none. I know of no reason why Mr. Parker and his associates should not receive the same consideration at the hand of the government that we should.

Senator THURSTON. Do you know of any reason why at the present time that should—would not receive the same consideration as you and your associates?

Colonel JONES. On the contrary, I have always thought that Mr. Ballou and Mr. McClanahan both were thought very highly of by the governor and his council, and that they stood just as good a show to receive consideration at their hands as we did.

Senator THURSTON. Was or is any member of the council interested directly or indirectly in your proposed irrigation scheme?

Colonel JONES. They were not, other than as government officers may be interested in these matters brought before them in their consideration of the public welfare.

Colonel PARKER. Do you remember, Colonel Jones, of about that day, or whether it was the day before we had our meetings or afterwards, I don't know, that you went down to one of our largest business houses here and offered a franchise or entertaining with—well, I might as well put it straight—went to Mr. Irwin and offered to sell him, if he would put up the money—that you had something good?

Colonel JONES. I recollect going to Mr. Irwin on something.

Colonel PARKER. Was that before we had our talk or afterwards?

Colonel JONES. That I don't recollect.

Colonel PARKER. Then by that you must have felt sure that you were going to get this franchise or you would not have gone to them?

Colonel JONES. That had absolutely nothing to do with this in any way, shape, or form, and hinged upon a question of law which I asked Mr. Irwin to submit to Mr. Hatch, his attorney—the construction of a United States statute, as I understood it.

Mr. McCROSSON. You stated, Mr. Jones, that you were equally interested with the Gehrs in the franchise that you applied for, did you not?

Colonel JONES. I did.

Mr. McCROSSON. That you had one-half and they together had one-half or you each had a third of the proposition?

Colonel JONES. The Gehrs and myself shared equally in the undertaking a certain proportion. There were others interested in it.

Mr. McCROSSON. Well, what was the consideration that you gave for your interest?

Colonel JONES. As I stated before, my services.

Mr. McCROSSON. Your services; in what way could you serve the procurement of that franchise?

Colonel JONES. Well, I think that giving my time and attention to it on pretty much the same lines that anyone would who goes into a business and gives time and attention to a proposition can do; in the same manner, you might say, as an attorney is paid for attending to the case of a client in a court of law.

Mr. McCROSSON. What more work did you do other than allowing your name to be used on the application for the franchise as trustee? Did you do any work other than that to further its procurement?

Colonel JONES. I think I did.

Mr. McCROSSON. Would you object to stating what it was?

Colonel JONES. Not at all.

Mr. McCROSSON. Please state.

Colonel JONES. I appeared before the council at a great many meetings and discussed the question of license with them from time to time and did everything I could with the members of the council to get them to consider the matter in a favorable light. We discussed the matter with the gentlemen who came before them who opposed the proposition.

Mr. McCROSSON. Then your work was to be with the Territorial officials and that was your services for the same interest as the Messrs. Gehr held, who had spent \$7,000 and considerable time previous to getting you interested?

Colonel JONES. I think that my services in getting the proposition through were reasonably worth what I asked and what they agreed to give.

Mr. McCROSSON. In getting the proposition through the council?

Colonel JONES. If it was possible to get it through.

Mr. McCROSSON. Are you acquainted or do you know of the interests that Colonel Parker holds in Puukapu and Laupahoehoe and Waipio?

Colonel JONES. Taking them in their order, I will state that my knowledge is from hearing the records discussed before the council there and the statements made there before the council, and there was some one who held an interest as trustee or guardian for half of the leasehold with Mr. Parker in the Puukapu leasehold. The others, I think, went further than that; I think I have seen the records printed in a pamphlet gotten out by the land office here

under Mr. Brown at the time; I think all these matters appeared there, and I think that I have read over the list of lands that he had and the list of lands that a good many others had.

Mr. McCROSSON. Did you consider those holdings of Colonel Parker on that watershed, on the mountains there, of considerable value to the successful promotion of a water ditch in the Kohala district?

Colonel JONES. I am not well enough acquainted with the lands there to know how far and how valuable they would be. They must have some value in that respect, in my opinion.

Mr. McCROSSON. What I am getting at is this: Did you think that Colonel Parker and his associates here would entertain a proposition of combining with yourself and Messrs. Gehr, giving us interests in that watershed for 49 per cent of the proposition where yourself and associates were to take 51 per cent for the services, and the money expended by the Messrs. Gehr was the only consideration? Do you think that Colonel Parker would have combined had that proposition been the only consideration?

Colonel JONES. You mean to that new proposition or at the time?

Mr. McCROSSON. At the time.

Colonel JONES. All I can say to that is that they did do so.

Mr. McCROSSON. Colonel Parker was giving away his birthrights for a mess of pottage.

Colonel JONES. That may be; that is something Colonel Parker would have to decide for himself.

Mr. McCROSSON. I leave it for the members of the committee to consider, whether the Colonel would have considered such a proposition. I don't think any sane man would.

Senator THURSTON. That is a matter of argument.

Senator BURTON. Do you also think that the local authorities here ought to have the power, and the sole power, to grant franchises of this kind?

Colonel JONES. I think under proper restrictions it would be all right. I don't think they ought to have the sole power; personally, I do not.

Senator BURTON. What other power should be associated with them?

Colonel JONES. I think a very wise provision would be to have matters of this kind subject to the ratification of the Land Office at Washington.

Senator BURTON. Secretary of the Interior?

Colonel JONES. Secretary of the Interior.

Senator BURTON. Do you know, if that should be the law, it would be the only one of the kind that would be in the United States anywhere?

Colonel JONES. I don't. I have not sufficient knowledge on the matter, Senator.

Senator BURTON. You understand that on the mainland that no executive officer has any power to grant such a franchise as this, or that has any discretion in passing upon such a franchise?

Colonel JONES. I have a different understanding from that, Senator, with reference to the granting of the right of the use of waterways by the War Department. I may have a wrong impression, but I think there is something of that kind, where the War Department has the sole authority to grant such concessions.

Senator BURTON. You are mistaken.

Colonel JONES. Over navigable streams.

Senator BURTON. Nothing similar to this—establishing harbor lines.

Senator THURSTON. The Secretary of War has full power to grant irrevocable license for right of way.

Senator BURTON. You are mistaken.

Senator THURSTON. I beg the Senator's pardon, I have secured three or four.

Senator BURTON. You mean over forests?

Senator THURSTON. No. Irrevocable license for right of way in connection with Government lands, in effect over all the public lands that are placed under the care of the War Department.

Senator BURTON. I think not. Even if it was, it would not amount to anything. It is nothing similar to this—nothing like this if this law remains.

Colonel JONES. Your question is very broad. That is why I answered as I did.

Senator BURTON. For instance, the law applicable in this Territory, as interpreted by Judge Van Devanter, would mean that a railroad could not be built here anywhere on this island except by authority of the governor and his council—could not get the right of way.

Colonel JONES. I so understand.

Senator BURTON. Same as building a ditch. Do you think that law should remain that way?

Colonel JONES. I feel, with regard to granting a railroad franchise, that is something that the people ought to have something to say about.

Senator BURTON. But who do you mean by the people?

Colonel JONES. To a large extent I believe in government ownership in these matters.

Senator BURTON. Well, you understand me, don't you? What I was trying to get at was whether you thought that the right of way should be granted—whether the power should be with the Territorial authorities here for railroads and ditches?

Colonel JONES. In a limited extent they should have something to say with reference to the line of the road—where it should go—as I take it, for this reason, that a public railroad is to a certain extent a public corporation for the use of the public, and the public itself is superior to that, and it should be limited so that they could not take away from the public those things which belong to it, or of right belong to it.

F. WUNDENBURG, sworn.

Mr. MCCLANAHAN. How long have you lived here?

Mr. WUNDENBURG. All my life, except four years.

Mr. MCCLANAHAN. Did you, at the time Colonel Parker left this country, in September, 1901, hold his power of attorney?

Mr. WUNDENBURG. I did.

Mr. MCCLANAHAN. Did you have presented to you by the Colonel a draft, tentative agreement between the Colonel and his associates relative to this Hawaii ditch?

Mr. WUNDENBURG. I think on the very day that he left here he handed me such a document.

Mr. MCCLANAHAN. Tell the commission the circumstances under which you examined it; give the circumstances of it.

Mr. WUNDENBURG. Mr. Parker was preparing to leave for the coast, and he handed him this document. He said he had only casually looked at it and that it was pertaining to the combination of two par-

ties with regard to this water ditch in Hawaii. He said he had given it no attention whatever and that he had to go away, and he says, "Now I place it in your hands while I am gone."

Mr. McCLANAHAN. Did you attend to it? State what you did in regard to it.

Mr. WUNDENBURG. I believe that very day a meeting was to be called in your office to consider the matter. I forget whether I got time to examine it that day; at any rate, after I examined the thing it seemed so manifestly unfair and unjust that I declined to sign it.

Mr. McCLANAHAN. In other words, you declined to sign it for Colonel Parker?

Mr. WUNDENBURG. I certainly did.

Mr. McCLANAHAN. Did you or in fact any one state to that effect?

Mr. WUNDENBURG. I think I so stated in your office. I think I so stated to you.

Mr. McCLANAHAN. Did you notify other parties, Colonel Jones or the Messrs. Gehr?

Mr. WUNDENBURG. I never had any personal interviews with any of them. Negotiations went on in your office there and I opposed them from first to last.

Mr. McCLANAHAN. After that day, the 17th of September, did you at any time appear before the executive council in its considerations of this ditch matter and the license as representing Colonel Parker?

Mr. WUNDENBURG. What might I understand by the council?

Mr. McCLANAHAN. Well, Governor Dole.

Mr. WUNDENBURG. Oh, on one occasion prior to Mr. Parker's departure an invitation was issued by the governor for all those interested in the ditch matter to appear and give their views.

Mr. McCLANAHAN. I am not speaking of business prior but subsequent to Colonel Parker's departure. Did you appear there?

Mr. WUNDENBURG. I never met the executive council.

Mr. McCLANAHAN. Mr. Gehr stated you appeared there for Mr. Parker and gave sanction by that appearance.

Mr. WUNDENBURG. I have always strenuously opposed that, and I never met the executive council.

Senator THURSTON. How long before Colonel Parker left on the steamer that day did he give you this paper?

Mr. WUNDENBURG. According to my best recollection, that same day.

Senator THURSTON. How long before he left?

Mr. WUNDENBURG. The steamer left about noon, 12 o'clock, if my recollection is correct; somewhere in the neighborhood of 10 o'clock.

Senator THURSTON. Where did he meet you when he gave you the paper?

Mr. WUNDENBURG. In my office.

Senator THURSTON. Did you examine the agreement that day?

Mr. WUNDENBURG. I did.

Senator THURSTON. Before the Colonel left?

Mr. WUNDENBURG. Certainly.

Senator THURSTON. Did you examine it while he was there?

Mr. WUNDENBURG. I don't remember the details. I think he handed me the paper and said he had not time to give careful consideration to it and left it in my hands.

Senator THURSTON. After you examined it, did you see the Colonel that day before he left?

Mr. WUNDENBURG. I did, sir.

Senator THURSTON. Did you advise him against executing it before you left?

Mr. WUNDENBURG. I found him on board the steamer. I went down to meet him. There was a quarantine and he came down the gang plank. I told him from what I had seen I opposed it, and not to sign under any circumstances.

Senator THURSTON. Well, he left the matter entirely in your discretion to reach such conclusion as you saw fit?

Mr. WUNDENBURG. I understood so.

Senator THURSTON. After he left, is it not a fact that you had different conferences with Mr. Gehr and his associates over at Robertson's office?

Mr. WUNDENBURG. I met at Mr. McClanahan's office.

Senator THURSTON. Wasn't you and Mr. Gehr and others at Robertson's office in connection with this matter on the day that Secretary Ryan's letter was received.

Mr. WUNDENBURG. I don't know whose office. We had several meetings with regard to this amalgamation of the company, and I forget whose office we were in at the time.

Senator THURSTON. During all this time you were still carrying on negotiations?

Mr. WUNDENBURG. Yes.

J. T. McCROSSON, sworn.

Mr. McCLANAHAN. I would ask that Mr. McCrosson make his own statement.

Mr. McCROSSON. I will state that on the 10th of July or on the 8th of July, 1901, there was a meeting of the executive council in the executive building for the purpose, as Colonel Parker and his associates believed, to issue to Colonel Parker a license for two ditches through a portion of Hamakua and Kohala districts over the government lands. On our arrival there—that is, I went there with Mr. Ballou—we found that there was another application, an application from J. M. Jones as trustee for precisely the same franchise as had been asked for several months before, nearly six months before, by Mr. Samuel Parker. The matter was not as much of a surprise to me as it would have been had I not learned a few days previously that such an application had been filed with the executive officials. However, I did not pay much attention to it, believing, as I did, that the rights that Colonel Parker held in the Kohala Mountains were sufficient to justify the granting of a franchise to him and his associates irrespective of who might apply for the same franchise. The council went into session, and the matter of the application of J. M. Jones, trustee, came up.

Senator MITCHELL. Who do you mean by the council?

Mr. McCROSSON. Governor Dole, the commissioner of public lands, the commissioner of public works, and the treasurer of the Territory, and the land commission. Immediately after its consideration began I could notice that certain of the officials had a different idea entirely from what they had expressed previously in regard to Colonel Parker's application. Colonel Parker's application had been considered months before that. It had been perfected according to the ideas of the situation of Acting Governor Cooper and of the land commissioner at that time, Mr. Brown.

They were very much in favor, unqualifiedly so, that it was an excellent thing for the Territory, and notified Colonel Parker and

Kinney, Ballou & McClanahan that they would send the form of franchise on to Washington, and would wait a reasonable time for a reply from the Interior Department at Washington, and if the reply did not come in that time that they would issue the license, if they had not received contrary advices. As I say, I noticed quite a little difference in the feeling and attitude of some of the officials in regard to the license. It was a thing that they wanted to look into a little more. They wanted to consider it more, notwithstanding the fact that it had been considered and decided upon months before. While the matter was under consideration, the acting governor's mail was handed him, I believe, by the governor's secretary. He opened his letters while the discussion was going on, and one of the letters was an intimation from the Secretary of the Interior that—an answer to the acting governor's letter, notifying them that they intended granting this franchise—intimating that in the absence of any express authority for granting such a license that the Territorial officials had better defer action and ask Congress for appropriate legislation to enable them to grant licenses.

Senator MITCHELL. That letter was put in evidence to-day?

Mr. McCROSSON. Yes; put in evidence to-day. In view of that letter, the acting governor stated that he thought that all negotiations had better cease; that they did not consider that they had the right to grant the license—Colonel Parker's license or any other. That was on the 8th of July. On the 10th of July I left Honolulu for San Francisco, and proceeded on to Washington and endeavored to have the Interior Department reverse the decision that they had given in regard to the rights of the Territorial officials to act. Instead of being able to induce them to change their opinion they reiterated or reaffirmed the former decision. The letter of September 11—

Senator MITCHELL. The Ryan letter?

Mr. McCROSSON. The Ryan letter, yes, sir; in which the Interior Department stated that Congress alone had authority to grant a license; that the Territorial officials did not possess the authority. I returned to San Francisco after that.

Senator MITCHELL. Did you advocate that decision?

Mr. McCROSSON. No; I advocated the reverse.

Senator MITCHELL. Reverse of that?

Mr. McCROSSON. Yea, sir; I wanted them to grant the Territory the right to act.

Senator MITCHELL. Full power?

Mr. McCROSSON. The power to act, believing that our superior rights in the Kohala Mountains would insure the getting of the franchise and the parties to whom it rightly belonged. I returned to the islands here in November and went up to Kohala. I saw the managers of all of the plantations in all the Kohala district, and I talked with them over the matter and asked them to call a mass meeting. They did. They passed a resolution indorsing the Hawaii Ditch Company. I personally obtained the signatures of five plantation managers and a Mr. Bryant, who is a planter there, and then took this petition that had been signed by five plantation managers and, as he told me, all the land owners in the Kohala district that would be affected by this ditch, and he obtained their signatures, and afterwards, some four or five days after he had taken the paper, he returned it to me, and they gave me also a record of the mass meeting. That is part of the record before the Senate Committee on Pacific Islands and Porto Rico.

I then returned to Washington, and in the early part of January there was a bill introduced in the House granting the right of way,

asking the grant of the right of way to the Hawaii Ditch Company over the public lands of the United States in the Territory of Hawaii, particularly in the district of Hamakua and Kohala, as part of the ditch would run from Waipio Valley through the Hamakua district to the Kohala district. That bill, about which Mr. Gehr talked so eloquently this morning, was not considered at but one meeting of the House committee. Another bill to satisfy other ideas was introduced by ex-Governor Powers, of Maine. Senator Thurston and Mr. Gehr appeared before the House committee in opposition to that bill, and it was considered on a number of occasions, and there was quite a discussion when Mr. Gehr appeared there. This morning, he, in a very dramatic way, pointed his finger at me and told me that I had made certain assertions then that he would call me to account for in Washington and Honolulu. He has not done so up to date. I give him an opportunity to do so now. I told Senator Thurston, knowing him by reputation as I did as an able, honorable man, and a Senator of the United States, I was surprised that he would undertake the case of a man who was nothing more than an ordinary blackmailer, whose only stock in trade was what power he could get through the influence of certain Territorial officials in Honolulu. That is the statement that he referred to this morning, which I have now repeated as nearly as I can as I stated it then. Notwithstanding the objections made by Mr. Gehr, after careful and due consideration by the House committee, the bill passed the committee unanimously and was reported to the House, and it passed there unanimously and went to the Senate. Mr. Gehr appeared in opposition there, and I don't know that I need go any further in regard to what went on before the Senate.

Senator MITCHELL. Leave out, as far as you can, this cumulative testimony.

Mr. McCROSSON. I will not go any further into the hearings before the Senate committee, because you, gentlemen, know all about that, and you know as much about it as I do. You know the opposition raised by Mr. Gehr, though not there seeking anything for himself, but there simply as an obstructionist and trying to prevent the passage of that bill. He stated to-day that while he was in Washington that he believed that he had a valid contract with Mr. Parker and the Hawaii Ditch Company, or Mr. Parker's successor, which is the Hawaii Ditch Company. If he believed that it certainly appears strange that he would be opposing his own interests there, which he certainly would be doing. Therefore, I must say that he could not have believed that he had any valid contract with Mr. Parker or his associates, otherwise he would have helped instead of hindering him before Congress.

Senator MITCHELL. That is argument. Give the facts.

Mr. McCROSSON. Since my return to the islands I have visited the Kohala district and I have seen the planters there and have secured from them a reindorsement of the petition which was presented before the Senate committee.

Mr. MCCLANAHAN. I would like to introduce that evidence. I will read it:

To the honorable the President and Members of the Senate of the United States of America, and the honorable the Speaker and Members of the House of Representatives of the United States of America in Congress assembled:

We, the undersigned inhabitants, sugar planters, farmers, ranchmen, and property owners of the district of Kohala in the islands of Hawaii, Territory of Hawaii, humbly petition the Senate and House of Representatives to pass an act

granting and giving to the Hawaii Ditch Company the right to construct and dig upon and over the government lands in this district ditches, flumes, and other structures from the Kohala Mountains to the district of North Kohala, for the purpose of conducting water from the mountains to the said district, for the purpose of supplying the inhabitants, sugar plantations, and agricultural lands with water.

Dated this 14th day of November, A. D. 1901.

JNO. HIND,
Hawi Plantation.
JAMES RENTON,
For Union Mill Company.
E. E. OLDING,
For Kohala Sugar Company.
THOS. KAY,
Halawa Plantation.
ROBT. HALL
For Niulii Plantation Company.

What is that attached?

Mr. McCROSSON. That is the minutes of the mass meeting in Kohala held by the land owners of Kohala on November 14, 1901, together with the petition to the United States President and Congress to grant the Hawaiian ditch bill.

Senator FOSTER. Why did they prefer to have you build this ditch rather than Gehr?

Mr. McCROSSON. I can answer that very readily by showing you the rights that we have in the Kohala Mountains, and I assert that nobody who understands the facts can contradict it that it is impossible for anybody other than Colonel Parker to construct ditches to carry water in there, for the reason that Colonel Parker controls the land.

Senator MITCHELL. How many plantation managers are there?

Mr. McCROSSON. Five; named above.

Senator BURTON. Did you have all the land owners?

Mr. McCROSSON. With the exception of one Mr. Gehr spoke of, and while he is in the district he is in the mountains and not on lands to be irrigated. And the Bishop estate or the Bishop museum, I don't know which, that is not a portion of the country to be irrigated.

Senator BURTON. You have not answered Senator Foster's question.

Mr. McCROSSON. Why should the people consider the Hawaii Ditch Company in preference to Messrs. Gehr? The reason is a practical reason, one of common sense—we have control of the land. I would like to have Mr. Boyd look over the map with me and verify my statements.

Senator MITCHELL. Proceed with your statements and let Mr. Boyd follow.

Mr. McCROSSON [indicating on the map]. This is the Kohala district, lands to be irrigated. This valley is Waipio Valley, owned by the Bishop Museum as trustee, Bishop estate or Bishop Museum in white here. This yellow land, colored yellow, is all crown lands. The green is government land and the white private ownership. This large area in yellow is known as Puukapu.

Senator MITCHELL. What is that?

Mr. McCROSSON. That is a division of land there. That is held under lease by the Parker estate and has between eleven and twelve years to run. This is Waipio Valley, owned by the Bishop estate, and is held under lease by Colonel Parker and has yet nineteen years to run. He holds the land, all the land of the Bishop estate with the exception of the roadway and of the water necessary to irrigate the said lands. Waimanu is held under a lease from the Government by

a subtenant of Colonel Parker's, Ah Chu. This white strip is Laupahoehoe, and is held by C. W. Booth and wife, and is held under option by Colonel Parker. You will notice that that runs from the sea to and abuts on the Puukapu land, held here by the Parker estate under lease. Now those ditches, one would start off here at this elevation and run around in this direction. The other would start at a low elevation here, about anywhere from 13 to 1,500 feet level, and run through these lower lands into the Kohala district and terminate here. Just at Hawi. Now I claim that it is utterly impossible for anybody who does not have the cooperation of Mr. Parker or the Hawaii Ditch Company to run the ditches across these lands or across this land without Mr. Parker's consent, the consent of the Hawaii Ditch Company.

Senator MITCHELL. When does the lease run out—the lease which is held by Colonel Parker?

Mr. MCCROSSON. Twenty-one years from the 1st of January, 1901.

Senator MITCHELL. Twenty years, then, to run?

Mr. MCCROSSON. Twenty years since the 1st of last January. Now, this watershed belongs anywhere from this point, Pololu to Waipio there, anywhere from 5 to 1,200 feet in elevation, running up here to about 5,600 feet elevation at the top. The greatest amount of water flows on this land, Puukapu being at the highest elevation. In fact it is the watershed for this entire district. The greatest amount of water flows there, owing to the clouds being broken by the high peaks. You ask Senator Foster why the people of Kohala prefer to indorse the Hawaiian Ditch Company rather than J. W. Jones and his associates. It is because of the facts just pointed out. These plantations that I speak of are from this point.

Mr. Gehr says he can build a ditch, and build it from here. Less than three weeks ago I crossed there, and I was very fortunate to get over there. If the water had been high, I could not have gotten over. As it was, the water was up to the saddlecloth in crossing. That was the reason that I claim he can not get the ownership and the rights of Colonel Parker, and that the Territorial officials in justice to him should put this right up at auction and should not recognize outsiders who come in here and make a survey over the land on which they have no right. They claim that they have expended a lot of money, and that that gives them an interest. The same might be claimed by a bank burglar. Because he spends a lot of money on tools to get into a safe, he feels aggrieved and deprived of his rights because he can not get inside.

Mr. E. S. BOYD, recalled.

Mr. McCrosson's statements in regard to Puukapu were correct. I will now show you. [Using map.] Puukapu runs from here, starts at the end of the Honopue boundary and running along there to the summit and from the summit down adjoining lands to Waikalooa. This map, of course, is on a very small scale. The lands of Puukapu to the lands of South Kohala, lands running into Waimea village.

The land of Waipio he has stated correctly. It belongs to the Bishop estate. The Government has 40,000 acres in Waipio Valley. It has its water right, as certain rights. The land is all held by L——, who has a lease that is not subject to transfer unless Crown commissioners or their successors, the present commissioner of public lands, gives permission.

Senator BURTON. Do you mean to say you grant leases with no right of transfer?

Mr. BOYD. Unless they apply with reasons, state the reasons to the commissioner of public lands.

Senator BURTON. Is that one of your powers also, to prevent transfers?

Mr. BOYD. To prevent transfers so that the government can protect its tenants. The land of Waimanu is held for government purposes.

Laupahoehoe, he stated that correctly. That, of course, is all government land with several private ownerships.

Now, while we have the map, in the discussion of the license, Mr. Parker's interests were mentioned. He has half interest and the other half is represented by Mr. A. N. Carter, who objected strongly to having the water taken into this region, as that belonged to South Kohala district.

Mr. McCROSSON. Does it flow into South Kohala district?

Mr. BOYD. It flows into Waipio and into the Hamakua district.

Mr. McCROSSON. Doesn't considerable flow down here?

Mr. BOYD. Yes; you can see water toward this way. I will state that the ownership, so far as the government is concerned, I represent the government. Now, in the discussion of the license and upon final consideration it was decided to leave Puukapu out. The Bishop estate objected to it. It was thought advisable to be left out.

Mr. McCROSSON. Then Mr. Parker would have no rights in there?

Mr. BOYD. He has the absolute right to take the appurtenances under his lease.

Mr. McCROSSON. Why did the government leave this out?

Mr. BOYD. It is for ninety-nine years.

Mr. McCROSSON. Where did you propose running the ditches then? Where did you propose getting water?

Mr. BOYD. To take water along these double lines.

Mr. McCROSSON. Where would it come from to go down there? Would you take it from Puukapu?

Mr. BOYD. How could it come from Puukapu?

Mr. McCROSSON. You are quite sure, Mr. Boyd—you made the statement a moment ago—you are quite sure that the water of Puukapu is lost into Waipio into South Kohala?

Mr. BOYD. I admit a certain proportion would run into these lands down here; the lands of Laupahoehoe and Nakooka.

Mr. McCROSSON. Now, Mr. Boyd—you say that there were about 78,000,000 gallons flowed down into Waipio?

Mr. BOYD. I have heard so.

Mr. McCROSSON. How much flows over into South Kohala into these mountains?

Mr. BOYD. Well there is about—quite considerable water flowing into Waimea. It runs through numerous subterranean channels.

Mr. McCROSSON. How much flows through Waimea?

Mr. BOYD. I can't tell.

Mr. McCROSSON. You can make a guess. You made a guess—

Mr. BOYD. I am willing to substantiate that.

Mr. McCROSSON. I will take your assertion.

Mr. BOYD. The stream of Waikoliki that runs through Waimea has its source in Pukalani.

Mr. McCROSSON. How much water—you say 78,000,000 in Waipio Valley—now, how much flows into Waimea by the stream?

Mr. BOYD. That has never been established.

Mr. McCROSSON. You have seen it?

Mr. BOYD. I have seen it.

Mr. McCROSSON. Is it 5,000,000 gallons daily?

Mr. BOYD. I don't think it will amount to that.

Mr. McCROSSON. Say, 5,000,000 gallons and 78,000,000 make 83,000,000 gallons from this watershed.

Mr. BOYD. I never made the statement that all the water amounts to 78,000,000 gallons.

Mr. McCROSSON. Seventy-eight millions and 5,000,000 would make 83,000,000?

Mr. BOYD. Yes.

Mr. McCROSSON. Did you ever hear of Mr. Brumer's report?

Mr. BOYD. Yes.

Mr. McCROSSON. The amount of water he stated—I could bring the report in—was about 7,000,000 gallons daily.

Mr. BOYD. Into South Kohala?

Mr. McCROSSON. Into Hamakua, and he stated that that 7,000,000 gallons was not more than one one-hundredth part of the water that flowed on that watershed. Now, if your statement is correct—83,000,000—how many million would that leave to go down to the sea through Puukapu and Muliwai?

Mr. BOYD. I never made a study of it.

Mr. McCROSSON. Bring over 6,000,000 gallons a day?

Mr. BOYD. I have never made a study of it.

Mr. McCROSSON. I think you were speaking as an authority.

Mr. BOYD. I am speaking as authority. The water that comes into Waipio Mountains into South Kohala and Puukapu there is not one-seventh.

Senator MITCHELL (to Mr. McCrosson). State your facts, and then let Mr. Boyd state his.

J. T. McCROSSON, recalled.

Mr. McCROSSON. Do you wish me to give the correspondence that took place between myself and you?

Mr. McCLANAHAN. Yes; I should like it.

Mr. McCROSSON. I will state that while in Washington Mr. McClanahan wrote me that Governor Dole was coming to Washington, and that before the governor's departure he had talked with him.

Senator MITCHELL. When was this?

Mr. McCROSSON. This was in April.

Senator MITCHELL. April last?

Mr. McCROSSON. April last, yes, this year.

Senator FOSTER. When Dole was in Washington?

Mr. McCROSSON. Yes, sir. Mr. McClanahan in his letter stated that he talked with the governor in regard to the Hawaii ditch bill then pending in Congress, and that the governor had informed him that if certain amendments were made to the bill or certain provisions embodied in it that his objections would be withdrawn. Mr. McClanahan wrote me to see the governor immediately on his arrival in Washington and confer with him on the subject. He informed the governor that he would write me a letter and that I had full authority to act for the Hawaii Ditch Company to embody amendments in our bill that the governor required, and that the Hawaii Ditch Company would ratify my action. I saw the governor on his arrival in Washington and talked with him in regard to his objections to our bill.

He stated to me that he had talked with Mr. McClanahan and that the objections which Mr. McClanahan had written me about were the ones that he urged against the bill, and that if they were removed that he would withdraw his objections to our bill. I call attention to the following letter written to Governor Dole, dated Washington, D. C., April 10, 1902, by J. T. McCrosson, for the Hawaii Ditch Company. It is printed on page 33. In this letter the objections that Governor Dole raised were fully met.

Senator FOSTER. You met the conditions?

Mr. McCROSSON. Yes, of paying an annual rental of \$2,500 and giving the Territorial land commission the right to fix water rates for the settlers and the conservation of the forest, fences, and so on, and the other objections that the governor had urged.

Senator MITCHELL. Fixed the annual rental to be \$2,500?

Mr. McCROSSON. \$2,500, yes.

Senator MITCHELL. Was that amendment offered to the bill pending in the Senate, Mr. McCrosson?

Mr. McCROSSON. An amendment was offered by Senator Mitchell meeting the objections raised by Governor Dole, and it is now a part of the record.

Senator MITCHELL. That was not acted upon?

Mr. McCROSSON. No, sir; not acted upon.

Mr. McCLANAHAN. That letter to Governor Dole?

Mr. McCROSSON. I delivered this letter personally, and Governor Dole discussed it with me, and he told me the Sunday evening following April the 10th that that met his objections and that he would go before the Senate committee the following day, Monday, but that he had an appointment with the Secretary of the Interior; but as he had that appointment he would not be able to be present and withdraw his objections, but that he would send the land commissioner, Mr. Boyd, to do so in his stead. The next day, at 10 o'clock in the morning, Governor Dole came into the committee room where the Committee on Pacific Islands and Porto Rico were sitting and told me that he was very sorry; that he had seen the Secretary of the Interior, and that he would have to continue to oppose our bill. I told him I regretted it very much, but it could not be helped. And he did oppose the bill.

Senator MITCHELL. Did the governor base his objections upon anything that the Secretary of the Interior had done or said?

Mr. McCROSSON. The Secretary of the Interior, he told me, advised him not to withdraw his objections.

Senator FOSTER. Any reasons why?

Mr. McCROSSON. No, sir. This morning Mr. Gehr spoke of the questions asked me by Senator Burton in the committee there, where I was asked to state what took place. What Senator Burton alluded to was the conversation that I had had with Governor Dole in regard to amendments to our bill overcoming his objections. I not only spoke to Senator Burton in regard to that, but to every member of the committee. I believe that was the mysterious something that Mr. Gehr would like to understand this morning in his testimony this morning before the committee.

Mr. McCLANAHAN. You have received from me, Mr. McCrosson, a letter which is, I think, somewhat explanatory of the status of matters here between the two parties the latter part of April.

Mr. McCROSSON. Yes, sir.

Mr. McCLANAHAN. Have you a copy of that?

Mr. McCROSSON. I have.

Mr. THURSTON. I want to request the committee to invite Governor Dole and the other members of the council to come before the committee. I wish to ask them a very few questions. It is a matter of justice, I think.

Mr. McCLANAHAN. I will say that on yesterday I addressed to the governor a request asking his presence at this hearing, and in his stead he sent his secretary.

Senator THURSTON. I have not felt at liberty to ask Governor Dole to come here.

Senator MITCHELL. We have already addressed a letter to Governor Dole, giving him an opportunity to be present.

Senator BURTON. If they don't want to come before the Commission we don't want to send for them.

Senator MITCHELL. We will consider your suggestion, Senator Thurston.

Mr. McCROSSON. Mr. Gehr made a statement claiming a large expenditure of money in investigating the watershed, that he was entitled to it by right of first discovery, that he had been where nobody had ever been before. As a matter of fact the land office has a record of surveys that were made from both sides of the Waipio Valley, one from Kohala in the mountains, and another from Hamakua up into Puukapu. One was made in 1889, I believe; one in 1892, one by Mr. Lydgate and one by Mr. Bruner. Their reports are incorporated in the hearing before the Senate committee. Notwithstanding that fact, Mr. Gehr makes the assertion that he was the first discoverer.

Senator MITCHELL. Is your company prepared financially to go on with this business?

Mr. McCROSSON. We are prepared to go on with it, sir, whenever we have the right to do so.

Senator MITCHELL. What is your estimate of the amount of money needed?

Mr. McCROSSON. To make proper surveys and estimates it would run between \$20,000 and \$30,000.

Senator THURSTON. I wish to ask two or three questions. What is the Hawaii Ditch Company, Limited—a corporation?

Mr. McCROSSON. A corporation; yes, sir.

Senator THURSTON. Formed under the laws of the Territory?

Mr. McCROSSON. Yes, sir.

Senator THURSTON. What is the amount of capital stock?

Mr. McCROSSON. That is in the record of the proceeding before the Senate committee.

Senator THURSTON. Well, do you know?

Mr. McCROSSON. I could not tell you from memory.

Senator BURTON. There is a copy of the charter printed in the record, a certified copy telling the number of shares of capital stock of this company and how many subscribed for up to the present time.

Senator THURSTON. How much money is paid into the treasury from subscribers?

Mr. McCROSSON. I can't tell you from memory.

Senator THURSTON. One hundred dollars?

Mr. McCROSSON. I can't tell you whether even that much.

Senator THURSTON. Is it not a fact that only the sum of \$100 has been paid in upon any subscription of stock?

Mr. McCROSSON. I could not tell you. If I was positive I would answer the question.

Senator MITCHELL. Do you know of any further sums paid in?

Mr. McCROSSON. As I stated, I could not tell you whether that sum was paid in or whether it is greater or less than that.

Senator FOSTER. No large amount paid in?

Mr. McCROSSON. No.

Senator THURSTON. When was the subscription made for the balance of the capital stock? It is not shown by the subscription attached to the articles.

Mr. McCROSSON. My remembrance is that it was all subscribed at the time.

Senator THURSTON. Will you look at those papers and see if more than 100 shares have been subscribed for in all?

Mr. McCROSSON. That is all the capital stock, sir.

Senator THURSTON. Representing how much per share?

Mr. McCROSSON. I will look over it and tell you.

Senator BURTON. It is all in the record.

Senator THURSTON. One hundred dollars and 100 shares subscribed for?

Mr. McCROSSON. Makes a total subscription of \$10,000.

Senator THURSTON. Upon which \$100 has been paid in.

Mr. MCCLANAHAN. We could not incorporate under that?

Mr. McCROSSON. I don't know.

Senator FOSTER. I think it was in the record that way, 100 shares subscribed and 10 shares paid in.

Senator THURSTON. Then up to the present time, Mr. McCrosson, your entire capital stock is \$100?

Mr. McCROSSON. You have stated so.

Senator MITCHELL. Who is the president of the company?

Mr. McCROSSON. Colonel Parker.

Senator BURTON. Was the ditch company to succeed to Colonel Parker's interest if he succeeded?

Mr. McCROSSON. Yes, sir.

Senator THURSTON. When did you associate yourself with Mr. Parker as one of the promoters of this enterprise?

Mr. McCROSSON. About July, 1900, as near as I can remember.

Senator THURSTON. What was to be your share in the enterprise?

Mr. McCROSSON. At that time that we associated with them my share was to be a one-third interest.

Senator THURSTON. And what did you put in to represent that one-third interest?

Mr. McCROSSON. I put in a great deal of time and money in investigating.

Senator THURSTON. Investigating what?

Mr. McCROSSON. Investigating the watershed.

Senator THURSTON. Who was employed in investigating the watershed?

Mr. McCROSSON. I employed myself.

Senator THURSTON. How much did you pay yourself?

Mr. McCROSSON. I paid the other fellow.

Senator THURSTON. Who was the other fellow?

Mr. McCROSSON. The man that I lived with.

Senator THURSTON. What is his name?

Mr. McCROSSON. Too numerous to mention. His name is legion.

Senator THURSTON. What investigation did he make?

Mr. McCROSSON. That is difficult to answer.

Senator THURSTON. Is he a civil engineer?

Mr. McCROSSON. I am the man. I am my own assistant.

Senator THURSTON. Was he an engineer?

- Mr. McCROSSON. I am my assistant.
- Senator THURSTON. I thought you said you paid the money to the other fellow?
- Mr. McCROSSON. I am the other fellow.
- Senator THURSTON. Then your investigation was made by yourself and you paid yourself for services rendered?
- Mr. McCROSSON. Exactly.
- Senator THURSTON. Did you run any survey?
- Mr. McCROSSON. I never ran an actual survey; no. I took measurements, levels, and measurements of the water.
- Senator THURSTON. How much did you pay yourself?
- Mr. McCROSSON. At about the same rate that your clients do.
- Senator THURSTON. Tell me, in round numbers, how much.
- Mr. McCROSSON. I have expended up to date, personally, probably considerably over \$6,000, personally.
- Senator THURSTON. How much of that was expended in examining the land?
- Mr. McCROSSON. That would be very difficult to answer just now. I made a number of visits on the island of Hawaii.
- Senator THURSTON. How much of that \$6,000 was expended here in the islands?
- Mr. McCROSSON. The greater part of it.
- Senator THURSTON. For what?
- Mr. McCROSSON. For expenses.
- Senator THURSTON. For doing what?
- Mr. McCROSSON. For attending to my business.
- Senator THURSTON. Well, for this company?
- Mr. McCROSSON. This company's business was mine.
- Senator THURSTON. Did any of the other members of the combination, association, contribute toward your expenses?
- Mr. McCROSSON. The Hawaii Ditch Company you refer to?
- Senator THURSTON. Yes; the associates before that was organized, or the company since.
- Mr. McCROSSON. Not before the organization.
- Senator THURSTON. Have they since?
- Mr. McCROSSON. Yes, sir.
- Senator THURSTON. What did Mr. McClanahan put in for his share in the corporation?
- Mr. McCROSSON. That is Mr. McClanahan's business.
- Senator THURSTON. Do you know, you are one of the associates?
- Mr. McCROSSON. I don't know; I can't answer.
- Senator THURSTON. What did Mr. Ballou put in?
- Mr. McCROSSON. That is Mr. Ballou's business.
- Senator THURSTON. Do you know?
- Mr. McCROSSON. I do not.
- Senator THURSTON. Do you know of his putting in anything?
- Mr. McCROSSON. I do not.
- Senator THURSTON. Do you know of Mr. McClanahan's putting in anything?
- Mr. McCROSSON. That is not my business.
- Senator THURSTON. Do you know?
- Mr. McCROSSON. I told you it was not my business.
- Senator THURSTON. I asked you, do you know?
- Mr. McCROSSON. It is not my business.

Senator MITCHELL. State, if you know.

Mr. McCROSSON. I have.

Senator MITCHELL. Your answer was you did not know?

Mr. McCROSSON. I do not.

Mr. GEHR. Mr. McCrosson, you stated at a meeting of the executive council the 8th day of July, 1901, you noticed almost immediately that there was a difference in the committee, a different feeling from what existed in meetings prior to that.

Mr. McCROSSON. I did.

Mr. GEHR. Will you please state what difference you noticed, if you can?

Mr. McCROSSON. I noticed that there were certain members, while previously members of the council, who had expressed their opinion and expressed it very favorably to the issuance of the license to Mr. Parker, whereas on the meeting on July 8, I think I have already stated, that some of them seemed to think that it was a matter which must be looked into very carefully, and that they would have to take time to consider it.

Mr. GEHR. Don't you know, Mr. McCrosson, that the statement was made at that meeting that the matter would have to receive further consideration for the reason that there were at that time two applications before the council for this privilege, and that the application of Col. J. W. Jones contained provisions which were very much more favorable to the Territory than the terms offered in the prior application of Samuel Parker?

Mr. McCROSSON. I don't remember of that being stated. It may have been stated.

Mr. GEHR. It may have been that that accounted for a portion of the change in feeling that you noticed?

Mr. McCROSSON. That is possible.

Mr. GEHR. Do you not know it to be a fact that when I was using dynamite to open this safe that I was on the lands of Puukapu by the express permission of Mr. ———, who represents one-half interest of Puukapu?

Mr. McCROSSON. Did I know of that fact?

Mr. GEHR. Yes.

Mr. McCROSSON. I did not.

Mr. GEHR. Has not Mr. Parker told you—stated in your presence—that it was with the permission of Mr. ———?

Mr. McCROSSON. Never to my knowledge.

Mr. GEHR. Did not Mr. Parker make that statement? Did he not make it at the meeting this morning?

Mr. McCROSSON. I don't remember his making any such statement. He might have done so.

Mr. GEHR. Do you not know it to be a fact that we were upon the land up there by the express permission of Mr. Frank Woods?

Mr. McCROSSON. I do not.

Mr. GEHR. You do not know that Mr. Frank Woods was at our camp many times?

Mr. McCROSSON. I had no means of knowing that.

Mr. GEHR. You have heard it since?

Mr. McCROSSON. I heard you were there. I never heard you were there with Mr. Wood's permission or without it.

Mr. GEHR. I wish to refer to page 112 of the record of the hearings

before the Senate committee, where appears the additional statement of J. T. McCrosson, dated May 22, 1902, in which he used this language:

Every statement made by me on behalf of the company which I represent is made of my personal knowledge and is not based upon hearsay testimony, as has been intimated by counsel for the interest which seeks to prevent the passage of the bill before you.

I ask that this committee ask him now to state under oath that all his statements made at Washington are true.

Senator MITCHELL. It seems to me that we are spending time over matters not important. I think we understand this thing now. I think we have the facts sufficiently. We can come to a conclusion later which will enable the committee at Washington to know what we are to do in this whole matter. I do not see that anything is to be gained by talking and controversy between the different sides. You may submit any further statements in writing.

Senator BURTON. I want to ask a question of both of you gentlemen. Was the franchise that each of you sought, a franchise to sell water only?

Mr. GEHR. Only for the purpose of selling water.

Senator BURTON. Common carrier, then. Now are both of you willing that the buyers of this water from the ditch shall say who shall have this franchise?

Mr. McCROSSON. I am.

Mr. GEHR. I am not prepared to answer that question at the present time.

Adjournment until 9.30 a. m., Friday, at the naval station.

FRIDAY, *September 12, 1892—11.30.*

Senator MITCHELL. The committee will hear Mr. McClanahan now.

E. B. McCLANAHAN, sworn:

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. McCLANAHAN. E. B. McClanahan; 38; Honolulu; lawyer.

Senator MITCHELL. State what interest you represent in coming before this committee.

Mr. McCLANAHAN. I am a stockholder in the Hawaii Ditch Company, Limited, and also its secretary.

Senator MITCHELL. How long have you lived in the islands?

Mr. McCLANAHAN. Lived here—I think, this is my fifth year.

Senator MITCHELL. You can proceed in your own way now and tell the committee what you want them to know.

Mr. McCLANAHAN. I want to express first my appreciation of the time the committee has given me. I will try to be brief, for I know you have many things to attend to besides this.

It was some time, I think, in the latter part of the year 1900 when my friend Mr. McCrosson approached me with the project of constructing a ditch in the Kohala district. His reason for doing so, I don't know, unless it was simply friendship. Mr. McCrosson is well known here and has lived here off and on for a much longer period than I have. We were great friends, and he came to me with a project. I informed him that I was a member of a law firm, Mr. Kinney, Mr. Ballou, and myself, and that I did not feel that I could go into the undertaking unless I should consult with my partners. I did so. Mr. Kinney declined to go into it because of his plantation interests

taking up his time and resources, but Mr. Ballou consented to go in, so that with Mr. Kinney's consent Mr. Ballou and I were free to deal with Mr. McCrosson.

Mr. McCrosson, under this condition of affairs, consented to take Mr. Ballou in. We then began to go into the matter and discuss it, Mr. McCrosson explaining what he had done and what he had discovered in the Kohala Mountains and the feasibility of the scheme and the possibilities of it. Upon inspection of the records and the maps—government maps—and from the owners of property, it appeared to me that it was absolutely essential to the success of the scheme that we interest Mr. Parker because of his holdings there in that locality. This view met with the approval of Mr. McCrosson and Mr. Ballou, and that was the reason Colonel Parker was taken into the scheme, because of his interests.

The Colonel was to have one-third interest in the proposition, Mr. McCrosson one-third as being the discoverer of the enterprise and its promoter up to that time, and the remaining one-third went to Ballou and myself. While I am on this subject of interest, I will say now that Mr. Ballou has no interest whatever in the Hawaii Ditch Company, Limited.

Senator MITCHELL. At this time?

Mr. McCLANAHAN. At this time. Mr. Ballou left the islands last November on account of the illness of his wife, and is now traveling in Europe and expects to be back in the early part of the coming year, and at the time of leaving he sold me his interests because he feared that he would be unable to carry his burden of the enterprise because of his increased expenses in regard to the sickness of his wife.

When we had made our agreement we—Colonel Parker and with Mr. McCrosson—it was reduced to writing. I do not desire to produce it. I do not think it is material. I will state for the benefit of Mr. Thurston it is not a partnership agreement. We then proceeded to lay our plan before the government, and that was done originally by the letter of January 31, 1901, which has been introduced. It has not been introduced in evidence, but has been called for from the governor, and we were informed that it could not be found. That letter, unfortunately, I am unable to find a copy of. The letter was replied to by the commissioner of public lands, and to that we sent a reply which I also called for and has not been produced, so I shall ask leave to put in a copy of that letter, being the reply to the letter of the 18th of February from the commissioner of public lands.

HONOLULU, April 15, 1901.

J. F. BROWN, Esq.,
Commissioner of Public Lands, City.

SIR:—

Senator MITCHELL. Mr. Brown at that time held the position that Mr. Boyd now holds?

Mr. McCLANAHAN. Yes.

In reply to your favor of February 18, referring to our favor of January 31, we beg to submit herewith a map showing the approximate right of way desired for ditches, flumes, etc., over Kohala, Puukapu, Waimanu, and the northwesterly portion of the island of Hawaii. It is not practicable at the present time to furnish the names of all the streams which will be tapped by the ditch or the sites of reservoirs, but we trust that the accompanying map will give all the information which the government desires. In view of the discussion which we have had with the government in this matter, we wish to restate with a little more fullness

the terms and conditions upon which Mr. Parker and his associates desire to acquire this license.

Length of term.—The term of the license desired is ninety-nine years, this term being necessary on account of the immense outlay of capital which will be needed to make the ditches as contemplated. The approximate cost of the ditches as shown on the map submitted herewith is estimated at \$2,000,000. We think that any objection to this length of term will be satisfactorily met by adjustment of license fee along lines hereinafter set forth.

Compensation to government.—This may be divided into a number of different heads, as follows:

(a) Direct money payment. Mr. Parker and his associates offer the government a rental of \$500 per annum for the first ten years of the license. At the end of ten years and at every ten years thereafter the amount of this fee to be adjusted by arbitration between the ditch company and the government, but in no case to be less than \$500 per annum.

(b) Increase in value of government lands. As shown by the accompanying map and also by list submitted herewith, there are between 20,000 and 25,000 acres of government lands in Kohala which will be benefited by the proposed ditch. The proposed license would contain stipulations that the ditch company will furnish water to all homesteaders for domestic purposes out of the ditch at a rate to be fixed by the government and for agricultural purposes at such rates as the ditch company shall sell its water to other private parties. The value to the government of converting 20,000 acres of nearly worthless land into valuable homestead places can be better estimated by the government than by ourselves.

(c) Increase to Government revenues from private property. The same increase of value to Government lands would be shared by all the private parties along the route of the proposed ditch, and in the increase of wealth in the district the Government would profit directly through increased revenues from taxation.

(d) Forest preservation. The license should contain reasonable stipulations to be fixed by the Government concerning the preservation of forests on Government lands forming the watershed through which the proposed ditches pass. This would include the fencing out and killing of wild cattle and the planting of trees where necessary.

(e) Vested rights of private parties. The license should contain a stipulation that the ditch company would in no way interfere with vested rights of private parties or with the rights of the Government to use, sell, or lease, or otherwise dispose of Government land across which the ditch would run.

Forfeiture clause.—The license should contain a clause forfeiting all rights under it if actual construction does not begin within two years, and if one of the ditches is not actually completed and delivering water within five years and both ditches completed within ten years there shall be forfeiture of any rights hereunder exercised.

Respectfully submitted.

KINNEY, BALLOU & McCLANAHAN,
S. M. B.,

Attorneys for Samuel Parker.

The commission will note, I think, that the terms of this original proposition made first in the early part of the year 1901 for that license are practically the same terms that Governor Dole in this year in Washington to Mr. McCrosson required to be inserted in the act as it was then before the Senate. At the time of the presentation to the governor of this matter, originally by Mr. Parker, if my memory serves me right, Governor Dole was not feeling well, and was sojourning on the island of Hawaii. The conduct of affairs of the government were in the hands of Acting Governor Henry E. Cooper. The conferences which followed the presentation of our application were several, and resulted in the formation and preparation of a license along the lines suggested in the letter just read, and a copy of which license has already been filed in this hearing. This license was agreed to by the then executive council, and we were then told that it would be forwarded to Washington, with a letter informing the Interior Office that if no objection were made by the Interior Office within a certain time that the license would be issued as framed.

This was entirely satisfactory, and we then proceeded to wait for the expiration of the time limit. If I remember correctly, the time limit expired, and I saw Acting Governor Cooper, and he begged for a little extension of the time on the plea that there was a boat coming in a few days later, and with that boat might come the answer. I consented to that, with the understanding that if the boat did not bring an answer the license would be signed.

I think it was between the time of that conference with Mr. Cooper and the day set for the arrival of the boat that we learned that there was another "Richmond in the field." It was the first intimation that we had had, and it did not come through any authoritative source. I don't remember the source now, but on the day set for the signing of the license we appeared in the council chamber and were informed that there had been filed another application for the same privilege, that being the application of Mr. J. M. Jones, trustee.

You can imagine that we were surprised and could hardly see, and I think it was stated at the meeting we could hardly see, the necessity for the governor considering this second application, as it was bound to us under the first. While this matter was being discussed in a desultory way Mr. Cooper's mail was handed to him from the boat, which was expected that day, and there was this letter from the Secretary of the Interior, advising the government here to go slow in the matter unless they had express statutory authority, which was read, and put a stop to the proceedings. Mr. Cooper declined then and there to grant the license, claiming that he had not the power.

From that time on the two rival companies were watching each other with a great deal of interest. I know that it was so on our part, and I believe it was so on theirs. I know positively that we became impressed, through vague rumors perhaps, if nothing more, that the rival company had the ear of some member close to Governor Dole, a member of the council. This impression gained upon us as events transpired from that time on. It is very difficult for me to be accurate and say just what was the cause of this impression. It did exist. We had clearly that impression that they had the ear of some power behind the throne. For that reason we felt ourselves outdone. Soon after this meeting which I have last referred to, Mr. McCrosson, at our suggestion, went to Washington to see if he could not reverse the tentative decision of the Interior Department, for we believed then and we believe now that it was wrong. We wrote as best we could an opinion on the subject and sent it to Mr. McCrosson. The opinion was written by Mr. Ballou, who is considered an able lawyer, I believe, and it was an exhaustive opinion, and I understand that Mr. McCrosson used that opinion in the presentation of the matter again.

Senator MITCHELL. It was in favor of the power of local government to grant licenses?

Mr. MCCLANAHAN. Yes. In spite of Mr. McCrosson's efforts, which I believe were strenuous, to secure a reversal of that opinion—I am sorry he did not go more into detail as to what he did—they were strenuous, I know, for he was sent there for that purpose—in spite of our brief, which I believe to be an able one, the office of the Interior Department reaffirmed their first stand in a lengthy opinion, going somewhat into details.

Senator BURTON. That is the letter written by Ryan?

Mr. MCCLANAHAN. That is the letter written by Ryan. While Mr. McCrosson was away the management and control of the ditch were left necessarily to Mr. Parker, Mr. Ballou, and myself, under no

written agreement, but we were to look after matters here while he was looking after matters in Washington. And it was during his absence that we thought it advisable to learn what these people had—what power they had, what rights they had—that we might see if we could not come together, if we judged that their rights would jeopardize our chances.

Whether it was an impression or not, it certainly was something which existed in our minds and grew upon us, that they would force us to a competitive bidding for that license. We thought that was very unjust, because we could not understand how anyone could build the ditch not having our rights; but as long as they had this unknown, unseen power we felt impelled to deal with them; so we had this first meeting in the bungalow, the object being—it might not have been praiseworthy—to find out whether there was any truth in the impression which we had gained. My whole conduct of the conversation was directed along these lines, to find out whether they really possessed the power to do what they were leading us to believe they would do. It was for that reason I urged upon Colonel Jones to tell me how he could guarantee or assure us that the matter would not be put up at public auction if we came together. As I wrote Mr. McCrosson at the time, his denial of my question to him, "Is Mr. Boyd interested with you?" left me more firmly than ever the impression that he was interested. I can't tell you the words of that denial, but it left more firmly than ever the belief in my mind that he was interested. While nothing came of that meeting, but we were, as I say, only the more firmly convinced that they had the power. While furthering negotiations we were all the time hoping that we would put the government to the test of granting us the license, or refusing it, by some good news from McCrosson.

Mr. Jones and Mr. Gehr employed an attorney in the negotiations which followed, and let me say right here that Governor Dole was very anxious that there should be a consolidation of the two interests, and for worthy motives, I believe. He did not like the idea of choosing between one or the other, and I don't believe he at that time liked the idea of putting it up at auction, because I think he believed that Colonel Parker's interests were such as to make that an unfair course to pursue, as far as Colonel Parker was concerned. At the council he did clearly intimate it would be better for all parties concerned to come together. He said that he was anxious that the matter should be settled in the interest of the people of Hawaii, and that he was also anxious to discuss then and there the terms of the license anew. This new discussion of the terms of the license was made necessary by the fact that the Gehr people had gone us one better in their application—an easy proposition, of course, because they had seen our offer, and with a proposition more favorable than ours the governor felt they must consider it.

Senator MITCHELL. In what respect was it more favorable?

Mr. MCCLANAHAN. The term was fifty years.

Senator MITCHELL. What rental?

Mr. MCCLANAHAN. Rental, \$1,000 a year.

Mr. GEHR. And 5 per cent gross receipts.

Mr. MCCLANAHAN. As I was saying, the governor was very anxious to consider the matter then and there, but he did not see how he could, with two propositions before him. He wanted to work on one. We were then, I believe, just beginning to negotiate with Mr. Gehr. We asked the governor to adjourn that meeting for the present that

we might be allowed to get together and see if we could do anything; and we had this meeting in our office, which lasted, as has been said, until late at night. That meeting progressed so far as to warrant us in believing that we would ultimately come together.

The governor's council met the next morning and accepted a report that whether or not we had come together, that the governor might proceed to the terms of the license. We went there with the understanding that we should say to the governor that it seem in all likelihood that we would come together, and that for the purposes of the terms of the license it would be considered that we had come together, and on those terms we then proceeded to discuss the license. Mr. Ballou—for myself, I don't know whether Ballou made the statement or I did, but one of us did so, and it was at the request, as I remember it, of the governor that we would withdraw Mr. Parker's application in that manner, the governor saying, as I remember it, that he did not like to have the two applications there. It was almost immediately after that that I left for the island of Kauai on business. I think I left on the 10th day of September. And Mr. Ballou was left in charge of the negotiations with these gentlemen. You know all about that. The drafts were prepared by Mr. Ballou and some on the other side were presented. The agreement which Mr. Ballou finally signed I never saw until I came back from Kauai, which was in the latter part of September sometime. I don't remember ever being asked to sign it. When I came back from Kauai news had come from Mr. McCrosson that Mr. Ryan had sent on his adverse decision, or his opinion upholding the decision of the Secretary of the Interior. It was good news to me, and I think good news to all of us, because it put a quietus upon an action contemplated here by the Government and made unnecessary our coalition with the other parties which had not been consummated. I am frank to say that the company, that we were in a position of being forced to coalition with them.

When we found that the Interior Department had made this decision, Mr. McCrosson having returned immediately to the islands, we determined immediately then, if we could not get our rights or our franchise here, to go where we could get it and where the opinion had suggested that we could go alone, and that was at Congress. It was then suggested by me—Mr. McCrosson was to leave in a very few days—that perhaps it would be more in form and perhaps a little more dignified for us to appear before Congress as a corporation than as individuals, and this idea received the approval of my associates and we immediately incorporated. Prior to this time Mr. Ballou had sold out his interest to me and gone. We immediately incorporated. It was a hasty incorporation. It was not one intended to represent the true magnitude of the enterprise, but it had the flexibility in it that was necessary to that magnitude, in that it allowed our capital to be increased to \$5,000,000, but it did serve the purpose for which it was formed, namely, that we go to Congress as a corporation, not individually. Mr. McCrosson proceeded to Washington, and you, gentlemen, know what he did then, obstacles which he overcame in the House and the obstacles which he overcame in the Senate. After we had news here of the passage of the bill by the House, I called upon Governor Dole, some days prior to March 25, 1902, at his office in the executive building, and I said to him: "Governor, I am here frankly to find out from you why you opposed the passage of our bill, the bill of the Hawaii Ditch Company." He said to me: "I may

answer you frankly why I oppose the passage of that bill." He then referred to the fact of his having received a copy of the bill and also the fact that he had sent to Mr. Hitchcock a letter in opposition to its passage, and then went on to state the grounds for his opposition.

I called his attention to the reference in the bill to the revised statute general law and asked him if he did not think that the rights of the Territory were conserved by that reference. He replied that he had not considered that before, in fact, did not know that the bill contained a reference to it, he having had one of the earlier forms of the bill. I then said to him, "Governor, if we accede to your request or demands, will you then withdraw your opposition to the passage of the bill?" He said to me "I will." I said, "Will you then lend your active support to its passage?" He said "I don't think that that would be proper for me to do, as a Government official, to lend my support to the passage of a private bill, but I will withdraw my opposition." I said I can not speak for anyone except myself. Mr. McCrosson will have full power when you reach there to act in the premises. I will submit this proposition to him and you may treat with him as you might, could, or would with the Hawaii Ditch Company, Limited, and anything that he does will be ratified. I then said, "Governor, do you not think it would be unwise to attempt to interfere or meddle with this present draft of the bill? Would it not be better for us to incorporate our arrangements in an outside agreement?" He agreed with me that it would be. I then went to my office and a few days later wrote this letter to Governor Dole that was handed to the governor on the day, I believe, of his departure for the States:

HONOLULU, HAWAII, *March 25, 1902.*

HON. SANFORD B. DOLE,

MY DEAR GOVERNOR: In re Hawaii Ditch Company, Limited. In line with our conversation of last week I have written to Mr. John T. McCrosson at Washington and requested him to call upon you on your arrival there. Mr. McCrosson has full power to act in the premises for us that are interested here, and anything that is done by him which may need ratification will be so ratified by the Hawaii Ditch Company. Dispatches from Washington say that the bill has passed the lower House, but I am not informed as to whether there were any amendments or not. Of course our talk was in line with the bill as it had been reported here through the newspapers, and if in its passage there has been any material change, such change would have to be taken into consideration as far as Mr. Parker and myself are concerned in any arrangements to be made with the local government. I state to you frankly that if the bill has passed both Houses when you arrive in Washington, I do not believe Mr. McCrosson can be dealt with along any of the lines intimated in our conversation until he has first consulted with the interested parties here, for, as you were told by me, our willingness to negotiate with you is based on your willingness to withdraw your opposition to the passage of the bill.

With my best wishes for a safe trip and a safe return, I remain,

Respectfully, yours,

E. B. McCLANAHAN.

The committee are fully advised of what happened in Washington, and I could not report that.

I want to say now what I believe to be the attitude of the Hawaii Ditch Company, Limited. In the first place, we believe that we have shown this committee that we control interests which have to be accounted with before that ditch can be built by any other than the Hawaii Ditch Company. If that showing has been made, we submit that it would be inequitable to force us into competition with parties who have no rights in the building of that ditch. Mr. McCrosson has used strong language in characterizing that situation. Perhaps I may

be more moderate in my expression, but my thought coincides with his, that if we are forced into a competition, holding the rights and interests which we have, with another company or another party, it is inequitable to Colonel Parker, for it will force us, or may force us, to an inequitable competition. The rights of the competitors in this instance are based solely on their statement, as you have heard, uncorroborated, that they have surveyed or have expended in surveys and investigation the sum of \$7,000 or thereabouts in this matter. I think the record clearly shows that their contention that they have any right or priority is not well taken. We were the first in the field, in every sense of the word. That was their lookout and their misfortune, perhaps, if they have spent \$6,000; that they did it in a loose and unbusinesslike way; but they did do it, and they ran the chances. It is certainly not such an asset as can be compared for one moment with the tangible interests of Colonel Parker, coupled with his diligence in this matter and his right of priority.

The talk about the arrangement which was made, the coalition of the two parties, I think has been satisfactorily explained to all. I think you understand the situation in which we are, and the reasons which led up to the tentative arrangements which we made.

Senator MITCHELL. Do you know at what date Mr. Gehr and his associates had actual knowledge of the filing of the first application?

Mr. MCCLANAHAN. I have no idea. We had first actual knowledge of their application when we appeared in the council room to receive our license, which would have been issued except for the letter.

So much for the proposition. From the standpoint of the Government, as I understand it now, their position is that it should be put up by the Government at public auction, assuming that they have authority so to do. In that line, before I leave it, however, I want to make one statement. That is this, that the Government has a policy, a supposed policy under which they had put up licenses and leased at public auction, but it is not a policy which extends to licenses universally. There is no law compelling them to do so, and there are instances where they have not done so in my knowledge. In the case of the Hawaiian Commercial and Sugar Company, one of our largest and most powerful and influential and wealthiest corporations, the Government granted to that corporation, if I am informed correctly, a license similar to this which we are applying for over public lands, solely for a term of fifty years and at a rental of \$500 a year without competition. Why? Rightly; because competition would have been a blackmailing scheme to hold up the plantation. No one else could have used the water beneficially and the Government saw it. The water properly could be used by the plantation alone, and in competition in the way of auction would have just forced the plantation inequitably to pay a higher price for the privilege than was right. Now the attitude of the Government is uncertain. In one breath they claim this right and privilege and in the other they claim that there should be general legislation. I claim it is absolutely inconsistent for them to take such a position. They must hold and say that they have the power or have not the power. We can not petition Congress for a general act if we do not need it to act. I doubt very much whether there would be found in the two Houses of Congress a majority who would grant a general act which would satisfy the Territorial officials. They would consent to a general act which gives to them the powers which they have now, but they would not be satisfied with anything short of that. In my opinion I do not

believe Congress stands ready to increase the powers of the Government officials.

We want this special legislation, even though we believe that Judge Van Devanter's decision is correct. We believe him to be correct. We believe that under the law, as it now exists, this Government has the right to issue that license. Why, then, do we want special legislation? It is simply and purely a business proposition that will appeal to any men of business, and I take it that the intelligence of our country is to be found in the United States Senate. The proposition is this: With the capital required to build this ditch, we actually find ourselves confronted with the record in the Interior Office on this question of the right of the Territorial officials to grant what they, we will assume, have granted to the Hawaii Ditch Company. Will we find capital going into a scheme of that kind, investing two or three million dollars on a right which has been unquestionably denied to the Territorial officials, and almost in the same breath given to them, and that, too, by the ministerial officer of the Department? We as lawyers know that the opinions of the Secretary of the Interior on questions of this kind are not law or binding upon the courts. So we are going to be confronted—I appeal to you, business men, is it not a reasonable supposition that we will be confronted; if we were to get that license from the Territorial government, would we not be confronted—with an unsurmountable obstacle in raising the capital to further this enterprise? Would capital go into it unless the title was absolutely incontestable? Can that be said to exist under the present situation of things? I submit to you it is not possible to do it. I don't believe that capital can be raised to further this enterprise or construct these ditches if this license is granted by the Territorial officials, even if I may believe as a lawyer that they have that right. Other lawyers may differ, have differed. I tell you lawyers of moneyed men would never advise their clients to put money into a scheme of doubtful validity. For that reason we have been forced to go to Congress by the act of the Secretary of the Interior. It is no act of ourselves that has brought about this unfortunate condition of things. I say Congress should concede us the rights which we ask for, especially since what we ask for has received the unanimous approval of the Territorial officials. The need is great. That country is burnt up every year or so. I am informed that the district suffers for water periodically. The need is great. It will take two or three or four years to build this ditch. I believe the Hawaii ditch bill should receive favorable consideration from this committee for the reasons and facts that have been shown.

Mr. BOYD. You stated in your remarks awhile ago something about Mr. Boyd. There are two Mr. Boyds. That is indefinite. To whom do you allude?

Mr. MCCLANAHAN. Mr. E. S. Boyd. No, now, I take that back. At the time I made that remark—asked Mr. Jones the question—I didn't know which Boyd. I knew that there were two Boyds who were brothers and who were public officials. I had no reference to either of those gentlemen.

Mr. BOYD. You meant the commissioner of public lands?

Mr. MCCLANAHAN. No; I did not know whether it was the commissioner of public lands or the commissioner of public works. These rumors which I had heard did not refer to either of you. It was simply a vague rumor in the air. I don't know that it referred to the Boyds. Mine was simply a chance question. I wanted to have Mr. Jones assure me that these rumors were not well founded.

Mr. BOYD. In the governor's council, didn't you notice that when that application was presented I was as much surprised as you were?

Mr. MCCLANAHAN. You may have been.

Mr. BOYD. One other question. In regard to the remark about the Hawaiian Commercial and Sugar Company. Didn't you hear me say that license was granted by the independent government?

Mr. MCCLANAHAN. I think I heard you say so.

Cross-examination:

Senator THURSTON. Have you the agreement that you have referred to, under which you associated yourself with Mr. Parker and Mr. McCrosson, carrying on this enterprise?

Mr. MCCLANAHAN. I have.

Senator THURSTON. Will you produce it?

Mr. MCCLANAHAN. No; I will not.

Senator THURSTON. Why?

Mr. MCCLANAHAN. Simply because, as I stated yesterday, it is relevant for but one purpose, in my opinion, and you have not denied that; it is relevant for the purpose of showing the power of one of the associates to bind the other.

Senator THURSTON. I had denied it. I want it for more than one purpose.

Mr. MCCLANAHAN. I assure you there is no such power in it, in my opinion.

Senator THURSTON. It is relevant to show the intention of these parties in reference to carrying on their plans. What was the provision of that agreement as to certain proportion of the interests represented binding the others by their action?

Mr. MCCLANAHAN. Now, Senator, I have not read that agreement for a long, long while. If there is any such stipulation or term contained in it, I think it is a two-third proportion. Am I right, Mr. McCrosson?

Mr. MCCROSSON. I could not state positively.

Senator THURSTON. Did you represent to Colonel Jones and to Mr. Gehr that there was such an agreement between you gentlemen, and that two-thirds could bind, could act for all?

Mr. MCCLANAHAN. If I did that was the truth.

Senator THURSTON. You wasn't here when the what has been called the final agreement—the final draft of the agreement—was prepared?

Mr. MCCLANAHAN. I was not.

Senator THURSTON. Was that matter left by you to Mr. Ballou?

Mr. MCCLANAHAN. In what way? I was going away and he conducted negotiations, if that is what you mean.

Senator THURSTON. Was he authorized to act for you?

Mr. MCCLANAHAN. No.

Senator THURSTON. Wasn't your interest joined with Mr. Ballou, the two of you holding a one-third interest?

Mr. MCCLANAHAN. I rather think it was, Senator, now I come to think of it.

Mr. MCCROSSON. I am pretty sure that it was not.

Mr. MCCLANAHAN. I don't know whether it was or not. Whether we had together one-third or whether we had each one-sixth, I do not know.

Senator THURSTON. The agreement would show that, would it not?

Mr. MCCLANAHAN. I think it would.

Senator THURSTON. I will ask you to refresh your memory by looking at the agreement.

Mr. MCCLANAHAN. Mr. McCrosson has refreshed my mind. I wrote you that our interests under the proposed agreement—my interest would be one-twelfth, whereas now it was one-sixth.

Senator THURSTON. After you returned to Honolulu and found that this agreement had been prepared and had been signed by Mr. Ballou and by Colonel Jones and Mr. Gehr did you examine it?

Mr. MCCLANAHAN. I could not say whether I did or not.

Senator THURSTON. Was your exception or objection to the scheme of the consolidation based on the fact that anything in that agreement was left out that had been agreed upon by the parties?

Mr. MCCLANAHAN. There was a most important thing in the agreement which had not been agreed to when I left, and that was the disposition of the Booth option. That was entirely unsatisfactory to me in the agreement which I saw after my return from Kauai.

The commission adjourned until 3 o'clock p. m. at the Hawaiian Hotel.

FRIDAY, September 12, 1902.

Cross-examination of E. B. MCCLANAHAN:

Senator THURSTON. At the time you approached Mr. Parker to induce him to go in—Mr. McCrosson and yourself—your sole asset in the enterprise then was your acquired knowledge of the situation of the Hawaiian Islands?

Mr. MCCLANAHAN. Personally, yes.

Senator THURSTON. Well, what other asset has ever been put into your association to carry on this enterprise since that time?

Mr. MCCLANAHAN. The Parker interests. Well, we have spent some money besides that, but the Parker interest is what we call the real asset of our enterprise now.

Senator THURSTON. Have you ever solicited any subscriptions from other people in the way of capital to carry on your proposed enterprise?

Mr. MCCLANAHAN. There is not room for the solicitation of subscriptions; the stock is entirely subscribed.

Senator THURSTON. To the extent of \$10,000?

Mr. MCCLANAHAN. To the extent of \$1,000, which is the entire capitalization of the Hawaii Ditch Company.

Senator THURSTON. Have you taken any steps to interest capital in this enterprise?

Mr. MCCLANAHAN. Personally, no. I think it would be inadvisable to do so.

Senator THURSTON. Your purpose is to get your concession and then take up the matter of raising the capital to carry it on?

Mr. MCCLANAHAN. It is my intention. I think it is the intention of Mr. Gehr and his associates. I don't think it is possible to secure capital for that enterprise at this time.

Senator THURSTON. When would it be possible to secure the capital for the enterprise?

Mr. MCCLANAHAN. We have nothing to offer except trouble, tribulation, worry, and hard work.

Senator THURSTON. When did you first indicate to the other side that your combination with them was off?

Mr. MCCLANAHAN. When did I personally intimate that?

Senator THURSTON. Yes, or, so far as you know, when did any of your associates?

Mr. MCCLANAHAN. That is very difficult to get at, Senator. I think

I can say it was after my return from Kauai that I declined to sign the agreement.

Senator THURSTON. Who asked you to sign the agreement?

Mr. MCCLANAHAN. I am not sure that I was asked. I think I had the agreement in my possession. I have no recollection of being asked to sign it.

Senator THURSTON. When you declined to sign it did you base your declination on the ground that the contract was not in accordance with the verbal agreement between the parties?

Mr. MCCLANAHAN. I am not prepared to state on what grounds I declined to sign it. Colonel Jones says that I declined to sign the contract on the ground that Colonel Parker had not signed it. That may be so or not. I don't remember, but I do know that the clause in the agreement relative to the disposition of the Booth option was not satisfactory to me.

Senator THURSTON. Did you not have a conference or more than one conference with the other side after Mr. Parker left, after Mr. Ballou had signed the agreement and before the letter from Secretary Ryan was received here?

Mr. MCCLANAHAN. I don't think that after the arrival of myself from Kauai, which was at a time subsequent to the departure of Mr. Parker for the States, that we had any further conferences between the parties. We may have met as individuals, but I don't believe that there was any further office conference.

Senator THURSTON. Did you have a conference at Mr. Robertson's office in the meantime?

Mr. MCCLANAHAN. Not that I remember, sir, at that time.

Senator THURSTON. Did you have or assign any other reason for refusing to proceed in your association with the other side than the fact of the decision of Mr. Secretary Ryan?

Mr. MCCLANAHAN. I don't know that I have stated I assigned any reason for my refusal, nor do I know that I have stated that I assigned that as a reason. I said this morning that as that fact was good news to us and made us congratulate ourselves that we had not entered into any agreement with the other side.

Senator THURSTON. You looked upon that as a lucky escape?

Mr. MCCLANAHAN. Indeed I did.

Senator THURSTON. Why was that, if you had already refused to proceed with the combination?

Mr. MCCLANAHAN. I did not say that I had already refused to proceed with the combination at the time of the Ryan decision.

Senator THURSTON. Well, as a matter of fact, you never had, had you?

Mr. MCCLANAHAN. Never had what?

Senator THURSTON. Refused to proceed with the association proceedings.

Mr. MCCLANAHAN. I had, as a matter of fact, declined to sign. When it was I don't know, relative to the time of the arrival of the Ryan opinion.

Senator THURSTON. If you had refused before that time to sign the agreement or to proceed with the association, and considered there was no agreement between the parties, why should you welcome the receipt of Mr. Ryan's opinion?

Mr. MCCLANAHAN. Your question is based upon the fact that I declined to sign?

Senator THURSTON. You stated you declined to sign.

Mr. McCLANAHAN. I declined to state when that was, relative to Mr. Ryan's opinion.

Senator THURSTON. Well, did you refuse to sign before the arrival of it?

Mr. McCLANAHAN. I can not state, sir.

Senator THURSTON. Have you examined the agreement between the parties of your side of this enterprise that I asked for this morning?

Mr. McCLANAHAN. I have.

Senator THURSTON. Is there not a provision in that agreement as to any part—two-thirds, or any other part—of the association acting for all?

Mr. McCLANAHAN. Not in the agreement which I have examined.

Senator THURSTON. Was there any other agreement existing between yourself and associates, written or verbal, to that effect?

Mr. McCLANAHAN. I have the impression that there was. I have been very busy since this morning's session, and sent to the safety deposit vault and took out this agreement which I understood you to refer to this morning and paid no attention to others which I knew to exist. I have the impression that there is such an agreement. Mr. McCrosson says there is not. I had the impression that there was.

Senator THURSTON. Are you able to state any further or other reasons than you stated this morning for your suspicions that the other side had greater chances with the governor and his council than your side had?

Mr. McCLANAHAN. I don't know that I stated any reasons for the suspicions other than vague, indefinite rumor, which I am unable to characterize in any other way than a rumor.

Senator THURSTON. Then you know of no facts as facts justifying your suspicions in your mind?

Mr. McCLANAHAN. I do not. I had the suspicion.

Senator THURSTON. Have you the two leases under which Mr. Parker holds Waipio and Waimanu?

Mr. McCLANAHAN. In my possession?

Senator THURSTON. Yes.

Mr. McCLANAHAN. I don't think I have.

Senator THURSTON. I would like to ask Colonel Parker, Have you those two leases in your possession?

Colonel PARKER. It is in the record. You will find them in the record.

Senator THURSTON. They are on the record?

Colonel PARKER. Yes; on the record.

Mr. McCLANAHAN. I was intimately acquainted with the Waipio lease; in fact, I took part in its negotiation.

Senator THURSTON. We may desire to submit some extract to show the conditions of those two leases. We will put it in writing.

Mr. McCLANAHAN. If the Commission please, you will remember that I called for Exhibit A, attached to the letter of September 30, 1901.

Senator MITCHELL. You can file a copy.

Mr. McCLANAHAN. It is a carbon copy. I drew it myself. You will remember that the letter was in regard to Mr. Parker's application, and this letter of application referred to an Exhibit A, which was a license.

Senator MITCHELL. You read that to-day?

Mr. McCLANAHAN. No; I did not read the letter to-day. This is a license which Mr. Parker in this new application said that he was willing to accept.

(Received and marked "Exhibit 9.")

Senator BURTON. The business of this ditch company, or these ditches, was to sell water to the landowners below?

Mr. McCLANAHAN. Yes, sir.

Senator BURTON. Are you willing that the landowners themselves may say who shall have this license?

Mr. McCLANAHAN. I am; I have already said so. As a matter of fact, I am perfectly willing to leave it to them.

Senator MITCHELL. Are you willing to leave it to the local government to say who shall have it?

Mr. McCLANAHAN. Decidedly not, for the reasons which I have stated this morning, though I believe they have the power. But the right, if exercised, will attach to our title a practical bar to our securing any financial assistance in the scheme.

Senator MITCHELL. In view of the fact of the different decisions of the Secretary?

Mr. McCLANAHAN. Just so, sir. In view of the fact of the vacillating policy of the government here. I understand that the government here, even though claiming the right, are in favor of general legislation.

Senator MITCHELL. Have you faith in the integrity of the officials here?

Mr. McCLANAHAN. I know but Governor Dole. I have absolute faith and confidence in his integrity. I say I know but Governor Dole. I have an acquaintance with the other members of the council in but a casual way.

Senator MITCHELL. What would you prefer would be done?

Mr. McCLANAHAN. The passage of the act which is now before the Senate.

Senator MITCHELL. The House bill with the amendments proposed in the Senate?

Mr. McCLANAHAN. We consent to the amendments proposed in the Senate.

Senator MITCHELL. Do you know what they are?

Mr. McCLANAHAN. I do.

Senator MITCHELL. What are they?

Mr. McCLANAHAN. The same amendments proposed to me by Governor Dole and sent to Mr. McCrosson. They are acquiesced in by the government and incorporated in the bill. There are four of them. First, the money compensation to be just what it was—I think, \$2,500—here. The second was a covenant or provision in the license that we should not divert the waters from the Waimea watershed; that is, the waters which would naturally flow to Hamakua. We should not touch these waters, but our waters should be taken from the Kohala watershed. The third provision was that there should be safeguards against encroachment on the rights of settlers and homesteaders. That is the provision which looked after their rights.

Senator MITCHELL. You are satisfied with all the proposed amendments now pending in the Committee on the Pacific Islands and Porto Rico?

Mr. McCLANAHAN. Absolutely; every one of them, sir. They were agreed to here, between the governor and myself, and afterwards

incorporated in the bill sent to the governor and introduced, I believe, by the chairman of this Commission.

Senator FOSTER. Did you have a talk with Mr. Boyd about the same amendments?

Mr. MCCLANAHAN. No; Mr. Boyd was in Washington at the time, I understand, working against our bill.

Senator BURTON. One question. Colonel Parker, are you willing that the property owners under this ditch that are to pay for the water—are you willing that they shall say who shall have this license?

Colonel PARKER. Yes, I am.

Mr. MCCLANAHAN. I want to say something else.

Senator MITCHELL. All right, proceed.

Mr. MCCLANAHAN. It seems to me that the attitude of the government here in this matter tends to defeat what the government wants. There is no question but what everyone here is in favor of giving water to the Kohala district. It seems to me that the attitude of the government here tends to defeat that very object. I do not think it can be successfully controverted, if there is a cloud or question upon the right of this government to issue a license, that capital can not be obtained to promote that ditch, that scheme. If that is a fair and reasonable business proposition, then I say this government, if it is in favor, as I believe it is, of building that ditch, it should not take that position. Any other legislation on the subject is not being demanded by anyone. The governor and Mr. Gehr have offered opposition, but demand no legislation.

Senator MITCHELL. That bill, of course, if passed, would cut off these people.

Mr. MCCLANAHAN. It is not an exclusive right. As a matter of fact, it would.

Senator MITCHELL. The effect of it would be to prevent them from obtaining any rights that would be available.

Mr. MCCLANAHAN. In my opinion, it would.

Senator BURTON. In other words, you would take all the water.

Mr. MCCLANAHAN. We would take all the water that we could possibly get and use.

Senator MITCHELL. After all, it comes down to this: If Congress should act upon this question and decide as between the two, a decision in favor of your House bill would eliminate the other party.

Mr. MCCLANAHAN. I never knew the other party was before Congress.

Senator MITCHELL. They are objecting to your bill. The effect of action on your bill would be to exclude them, would it not? I am not expressing any opinion as to what ought to be done; I am simply asking the effect of what might be done.

Mr. MCCLANAHAN. I may answer yes and no. It would not prevent them from going to Congress and asking for another right.

Senator MITCHELL. I understand you are in priority of right and action; that is your claim?

Mr. MCCLANAHAN. That is part of our claim.

Senator MITCHELL. First in the field and first in the records?

Mr. MCCLANAHAN. Yes, sir; and more than that.

Senator MITCHELL. That is your claim?

Mr. MCCLANAHAN. Yes; part of our claim.

Senator MITCHELL. If your claim is recognized, it would have the effect of eliminating the other party.

Mr. MCCLANAHAN. I think that would be the effect.

Senator MITCHELL. The question for us to decide is whether you are right or wrong.

Mr. THURSTON. Is the attitude of the local government any other rights than this? They object to any special legislation granting by Congress to a particular party and ask Congress if there is any existing law to confirm their authority?

Mr. McCLANAHAN. I think that is their attitude, but it goes further than that. I don't believe that this local government maintains that it would be proper or right for Congress to enact general legislation on this matter similar to that which exists in the United States, but they claim and maintain that it is proper and right and that they should have the control in some way or other over the question of where and when and how the ditches should be built. Now, I said this morning that we held the attitude that it would be impossible for Congress to pass a general law that would satisfy the officials here.

Mr. THURSTON. Well, without regard to the officials, do you object to the extension of the general laws of the United States on subjects of this character to the Hawaiian group?

Mr. McCLANAHAN. If I have an objection it is purely one which is personal and it amounts to this, that if such legislation were attempted, it is my opinion that it could not be consummated at the next session of Congress and probably not at the following session. In other words, it would cause a delay in the consummation and undertaking of an enterprise which is imperatively needed now. Aside from that I have no special objection to the enactment touching this subject-matter similar to that in the United States.

Senator MITCHELL. Is it possible for two companies to go in there and obtain concessions that would be valuable to the community and also valuable to the parties receiving concessions?

Mr. McCLANAHAN. I rather think not. I think that the company who went in first would be in a position to control the waters.

Senator FOSTER. And the customers?

Mr. McCLANAHAN. And the customers. I don't think there is room for two there. Of course you know our attitude. We believe that we are the only ones that could consummate this deal without litigation and a great deal of fighting in the courts.

That is all.

HEBERT GEHR, sworn:

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. GEHR. Thirty-seven; reside in Hilo, Hawaii.

Senator MITCHELL. What is your business?

Mr. GEHR. In charge of a railroad which is to be constructed in the islands.

Senator MITCHELL. Are you an engineer?

Mr. GEHR. No, sir.

Senator MITCHELL. What is your business?

Mr. GEHR. I am president of the road temporarily.

Senator MITCHELL. What road?

Mr. GEHR. Kohala and Hilo Railroad Company.

Senator MITCHELL. Running from where to where?

Mr. GEHR. From Hilo to the port of Mahukona.

Senator MITCHELL. How much of the road is constructed?

Mr. GEHR. None at all. The construction is not started.

Senator MITCHELL. It is a road in contemplation?

Mr. GEHR. Yes, sir.

Senator MITCHELL. To run from——

Mr. GEHR. From Hilo to Mahukona.

Senator MITCHELL. Do you represent the company?

Mr. GEHR. Yes, sir.

Senator MITCHELL. What is the name of the company?

Mr. GEHR. Kohala and Hilo Railroad Company.

Senator MITCHELL. A corporation organized under the laws of Hawaii?

Mr. GEHR. Yes, sir.

Senator MITCHELL. What is the capital stock?

Mr. GEHR. Three millions and a half.

Senator MITCHELL. Are you the manager?

Mr. GEHR. I am the president of the road.

Senator MITCHELL. Manager?

Mr. GEHR. No, sir. At the present time the road has no manager.

Senator MITCHELL. What has been done toward the construction of the road?

Mr. GEHR. Nothing except making the surveys, acquiring terminal sites, lands on the island of Hawaii.

Senator MITCHELL. In what capacity do you appear before the committee?

Mr. GEHR. As interested in the ditch company.

Senator MITCHELL. Ditch company?

Mr. GEHR. Kohala.

Senator MITCHELL. What side of the controversy?

Mr. GEHR. With my brother, A. C. Gehr.

Senator MITCHELL. Proceed and state what you think we ought to know in this matter.

Senator THURSTON. One or two questions. How long have you lived in the islands, Mr. Gehr?

Mr. GEHR. A little over four years.

Senator THURSTON. When, if at all, did you examine into the question or consider the question of an irrigation project in the island of Hawaii, covering the ground that has been described to the committee.

Mr. GEHR. In the fall of 1899 I started on it.

Senator THURSTON. Have you any information causing you to know or that makes you believe that any party connected with the other side of this matter was advised of your intended project there at any time?

Mr. GEHR. Yes, sir.

Senator THURSTON. Please state it.

Mr. GEHR. On one of my trips, I have made a number between Honolulu and New York, I was traveling on the steamer with Mr. O'Shaughnessy, civil engineer——

Senator THURSTON. Is he the engineer some one on the other side testified to be making estimates for them in this matter?

Mr. GEHR. The same man.

Senator THURSTON. Proceed.

Mr. GEHR. On this trip between Honolulu and San Francisco I saw Mr. O'Shaughnessy about the waters on the Kohala Mountains and told him that I was going to interest capital in the East. I was going on in the interests of the railroad work, and he told me that he would like to take the matter up himself and speak to Mr. McCrosson about it, speak or communicate.

Senator MITCHELL. What month was that?

Mr. GEHR. That—I can not name the trip.

Senator MITCHELL. What year?

Mr. GEHR. 1900, sometime. It was made after Mr. O'Shaughnessy reported adversely on the water proposition connected with the American Sugar Company, because we discussed that matter at the same time. It was on that trip, which I could look up, that I met Mr. O'Shaughnessy and the next time I met him was at the Occidental Hotel, and he told me that he had communicated with Mr. McCrosson on this matter.

Senator THURSTON. Was that before an application was—was that before January, 1901, when Mr. Parker's application was presented to the governor and his council?

Mr. GEHR. Yes, sir; and I believe a year before, or close onto a year.

Senator THURSTON. What steps did you take in the United States toward bringing this matter to the attention of people who might wish to undertake the project?

Mr. GEHR. My time was taken up entirely with the railroad work. I turned the matter over to my brother and put him in communication with people I knew; some of them were interested in our railroad work.

Senator MITCHELL. What month was that, what year?

Mr. GEHR. In December, 1900.

Senator THURSTON. That resulted in Mr. Gehr's securing the necessary capital and coming on here and completing the preliminary survey?

Mr. GEHR. Yes, sir.

Senator THURSTON. After the agreement which is in evidence had been signed?

Senator MITCHELL. I want to ask a question at that point. Upon what ground, what basis, had you for bringing this to the attention of your brother at that time; what did you know about it and what had you done about it, if anything?

Mr. GEHR. When we first started in to get a franchise for our railroad it was our intention to use electric power.

Senator MITCHELL. I refer now to the irrigation business.

Mr. GEHR. We sent an engineer at that time into the Kohala Mountains to investigate water for electric power for railroads. His report was such as we could not use it for power, but that there was a splendid chance to take water out for irrigation. Afterwards we took our chief engineer to make more investigation; the first was made by the assistant engineer.

Senator MITCHELL. What year?

Mr. GEHR. Latter part of 1899, and from that time on for the next six months.

Senator THURSTON. After the agreement, which has been put in evidence, had been signed by Mr. Ballou and by Colonel Jones and others, did you—were you present when Mr. McClanahan was asked to sign it? And if so, state what was said on that occasion.

Mr. McCLANAHAN. I don't believe that there was any evidence that I was asked to sign.

Senator THURSTON. I am going to put it in now.

Mr. McCLANAHAN. You say, Were you present when Mr. McClanahan was asked to sign? I say there is no evidence of that, that I was asked to sign.

Senator THURSTON. There will be in a moment.

Senator MITCHELL. No evidence?

Senator THURSTON. I propose to refresh his recollection.

Mr. GEHR. I am not sure he was asked to sign it. At a meeting we held in his office he had to go to Kauai, and he stated we had understood each other and any arrangements Mr. Ballou would make to go ahead and draw up the final papers, and he would, to the best of my recollection, he said he would, sign the papers for McCrosson, such as Mr. Ballou would draw up. Mr. Ballou was his partner.

Senator MITCHELL. All right, go ahead.

Senator THURSTON. Did you see Colonel Parker the morning he sailed, after this agreement was signed by some of the parties?

Mr. GEHR. I did.

Senator THURSTON. What conversation took place there with reference to his signing the agreement?

Mr. GEHR. If I can explain, I went to Mr. Ballou's office by appointment. At Mr. Ballou's request I went out to find Mr. Parker. He was busy in getting away. I met him in front of the Stangeawald Building, driving in a carriage, and I told him. I asked him to come up, the papers were all ready. He told me he had an engagement with Cecil Brown and would be up within half an hour to sign the papers.

Senator THURSTON. Ballou?

Mr. GEHR. Colonel Parker. I made some remark that I wished he would come up now, and he said, "Anything that Mr. Ballou has signed, I will sign before I leave the islands." I went back and told Mr. Ballou, and Mr. Ballou said we had better take the papers and go down to the boat and catch Mr. Parker there; which I did. He took the papers down to the boat to have Mr. Parker sign them. I was present.

Senator THURSTON. What did Colonel Parker do there?

Mr. GEHR. I talked to Colonel Parker as Mr. Ballou told me, and he said he was too busy to read them over before he left, but that he had explained matters to Mr. Wundenburg and to go to him.

Senator THURSTON. In other words, if Mr. Wundenburg thought the papers were proper he would sign.

Mr. GEHR. I understood that if the papers were drawn according to agreement Mr. Wundenburg would sign for Colonel Parker.

Cross-examination:

Mr. MCCLANAHAN. Where did you get your franchise for the Hilo Railroad—Kohala and Hilo Railroad?

Mr. GEHR. From the governor here.

Mr. MCCLANAHAN. From the governor here?

Mr. GEHR. From the governor and his council.

Mr. MCCLANAHAN. Didn't you get the franchise from Mr. Dillingham?

Mr. GEHR. I did not; never thought of it.

Mr. MCCLANAHAN. Did you say you were temporary president?

Mr. GEHR. Yes, sir.

Mr. MCCLANAHAN. What do you mean?

Mr. GEHR. Why, after the road is under construction some one of longer experience will take my place.

Mr. MCCLANAHAN. Is the capital raised?

Mr. GEHR. Practically raised, sir.

Mr. MCCLANAHAN. What do you mean by practically?

Mr. GEHR. I refer you to Mr. Pogue. I have been asked, for very good reasons, to say nothing myself.

Mr. MCCLANAHAN. Practically raised? Is it raised or not?

Mr. GEHR. You will have to ask Mr. Pogue.

Mr. MCCLANAHAN. You are president and don't know?

Mr. GEHR. I don't care to state.

Mr. MCCLANAHAN. Do you know?

Mr. GEHR. I know for my satisfaction.

Mr. MCCLANAHAN. You started that enterprise as a promoter?

Mr. GEHR. Yes, sir.

Mr. MCCLANAHAN. You are a promoter?

Mr. GEHR. In this one enterprise.

Mr. MCCLANAHAN. Is that your business?

Mr. GEHR. In this one enterprise.

Mr. MCCLANAHAN. Is that the business of your brother?

Mr. GEHR. I believe the ditch enterprise is his first enterprise of that kind.

Mr. MCCLANAHAN. Do you know of any other scheme that you and your brother have promoted?

Mr. GEHR. No; this is the first, except this railroad; I have promoted that.

Mr. MCCLANAHAN. How many times in the year 1900 did you go to the States?

Mr. GEHR. I can not put it exactly; I think about three round trips. I have made 10 round trips in the last four years.

Mr. MCCLANAHAN. When were these three round trips made—in the first or in the latter part of the year?

Mr. GEHR. As I remember, the three round trips ran through the year. A round trip took about four months.

Mr. MCCLANAHAN. You have just said that your work in investigating this water proposition extended from the latter part of 1899, when that assistant engineer gave his first report, and for six months' time.

Mr. GEHR. Yes.

Mr. MCCLANAHAN. During that time you were in Hawaii?

Mr. GEHR. Off and on. I have been going back and forth between Hilo and Honolulu and the coast practically all the time.

Mr. MCCLANAHAN. Were you at the coast during the first six months of the year?

Mr. GEHR. I believe I was.

Mr. MCCLANAHAN. This trip that you say you spoke to Mr. O'Shaughnessy—this trip you were on with Mr. O'Shaughnessy—was the trip that you told your brother about this scheme and put him on to it, was it?

Mr. GEHR. Yes, sir.

Mr. MCCLANAHAN. That is the time your brother learned of the scheme?

Mr. GEHR. Yes.

Mr. MCCLANAHAN. December, 1900?

Mr. GEHR. Whatever date that trip was.

Mr. MCCLANAHAN. Whatever date that trip was.

Mr. GEHR. I think it was just after the American Sugar Company had had Mr. O'Shaughnessy down for them; I think you can help me getting that date. Mr. O'Shaughnessy had been there to make a report on that water, and we talked that over and we discussed the Kohala water.

Mr. MCCLANAHAN. Did you send your engineers up into the mountains to investigate your water?

Mr. GEHR. Yes, sir.

Mr. MCCLANAHAN. Engineers of your railroad company?

Mr. GEHR. Two different ones; yes, sir.

Mr. McCLANAHAN. They were under the employ of the railroad company?

Mr. GEHR. They were.

Mr. McCLANAHAN. The money that you paid them—is that a part of the \$7,000?

Mr. GEHR. No, sir; no connection.

Mr. McCLANAHAN. None whatever?

Mr. GEHR. None whatever.

Mr. McCLANAHAN. Did you charge them with investigating water?

Mr. GEHR. The only investigations made for water were made when we were investigating for power by these engineers.

Colonel PARKER. Are you sure you are president of this railroad?

Mr. GEHR. I am.

Colonel PARKER. Who are the other officers?

Mr. GEHR. Vice-president at the present, George Ashley; auditor, Colonel Jones; secretary and treasurer, John S. Walker; and all other officials are temporary ones until the time comes when others take our places.

Colonel PARKER. Who was your associate when you first came down here?

Mr. GEHR. A man by the name of John Brown.

Colonel PARKER. John Brown?

Mr. GEHR. Yes, sir.

Colonel PARKER. Did you receive a letter from John Brown, Mr. Brown; did you receive any letter from him from New York?

Mr. GEHR. I have; hundreds of them; pretty nearly by every mail.

Colonel PARKER. Did you not receive a letter from Mr. Brown asking you to turn over the business to W. O. Smith or Mr. Swanzey?

Mr. GEHR. I received a request to do it.

Colonel PARKER. And still, notwithstanding that, didn't he put up the money for those surveys?

Mr. GEHR. He did not.

Colonel PARKER. And did you turn over—did Mr. Smith make demand on you to turn over the business to Mr. Swanzey?

Mr. GEHR. Mr. Swanzey did; Mr. Smith never did; I refused, and I spoke to Mr. Smith about it and he told me that there was nothing better to be done at the present time.

Colonel PARKER. Did you not know at that time that Mr. Brown was in New York conferring with the steamship company, Dearborn & Co., and these Hawaiian steamship companies?

Mr. GEHR. Yes; I knew.

Colonel PARKER. He was negotiating for the money for this enterprise—scheme—of yours?

Mr. GEHR. He was.

Colonel PARKER. Did he say anything that he had met me in New York, in Mr. Dearborn's office?

Mr. GEHR. I can't recollect. I don't believe he did, Mr. Parker.

Mr. McCROSSON. You say that it was in December you met Mr. O'Shaughnessy in the café of the Occidental Hotel, and talked with him again, a second time—talked with him in regard to the waters of the Kohala Mountains?

Mr. GEHR. I said it was after staying in the East some time, on my return, I met him at the café.

Mr. McCROSSON. You don't know what time the first time was?

Mr. GEHR. The first time on the steamer going over?

Mr. McCROSSON. Yes; the date.

Mr. GEHR. I don't know the dates.

Mr. McCROSSON. Was it between the 1st of January and the last day of December, 1901?

Mr. GEHR. I would have to look up the passenger list and find Mr. O'Shaughnessy's name on the passenger list, and then I can give you the date.

Mr. McCROSSON. You believe that Mr. O'Shaughnessy was the one who communicated with me and first gave me an inkling of the possibilities of gathering water in the Kohala Mountains?

Mr. GEHR. Might not be the first one to give you an inkling. I do believe he was the one who gave you the start to take it up. That water had been investigated and reports made three different times and turned down three times.

Mr. McCROSSON. Well, then, as a matter of fact, your brother was not the first one to discover that water?

Mr. GEHR. He was the first one to deem it feasible to take the water out, because all the other reports had been adverse.

Mr. McCROSSON. I may state for your information that in 1880 I was employed on the Kohala plantation by Mr. George C. Williams, the manager, as engineer of the traction engines there, and they found considerable difficulty in getting water, for Mr. Williams wanted water to flume his cane mill—had sufficient water for irrigation purposes, but not for fluming—and Mr. Williams sent me into the Kohala Mountains to see if they could get sufficient water for fluming. I made a report to him at that time. I made a favorable report on it then. So your brother could not have been the first.

Mr. GEHR. Did they take the water on the strength of your report?

Mr. McCROSSON. They did not. Did they take the water on the strength of your brother's report?

Mr. GEHR. We have been waiting for a chance to take it on our part.

Mr. McCROSSON. We had a chance to take this, but the expense to a single plantation was so great that Mr. Williams did not go any further with the proposition. For your information I will state that in 1898 my particular business in coming to Hawaii again after the lapse of a number of years was to look into this, the same proposition that I had looked into years before, and I can bring at least twenty people to testify that I spoke to them at that time in regard to this water and claimed that it was feasible to bring it out and profitable to use it in the plantations in the Kohala district. With such evidence as that would you still believe that your brother first demonstrated the feasibility of taking the water out?

Mr. GEHR. Most assuredly. The reports I refer to are on record. They give that information from Lorrin A. Thurston. If Mr. McCrosson had made a report where I could have had access to it, I would have known. I did not know you were a civil engineer. I did not know you came to the islands on that business. The first time I met you was when you came to me representing—I think I still have your card—representing railroad supplies. All the business we talked was in regard to railroad supplies, both here and at Hilo.

Senator MITCHELL. Mr. Gehr, when did you first know that Mr. Parker had filed an application for a license for a ditch, if you did know it as a matter of fact?

Mr. GEHR. I got the information from my brother. I was here in Honolulu.

Senator MITCHELL. Can you give about the date?

Mr. GEHR. It was along the middle of last year; middle of 1901. Let us say a little earlier than that—April or May.

Senator MITCHELL. 1901?

Mr. GEHR. 1901.

Senator MITCHELL. Prior to that date what had you done toward investigating or securing rights in any way, equitable or otherwise, in regard to this ditch?

Mr. GEHR. I had talked to gentlemen back East through the request of my brother, had helped him form an engineers' party, brought it out, and sent it up to the Kohala Mountains.

Senator MITCHELL. Make any surveys at that time?

Mr. GEHR. Then making them? No, sir.

Senator MITCHELL. Had you expended any money prior to that time, to the time that you had knowledge of this application?

Mr. GEHR. No, sir; did and did not. The engineers that went up for the railroad were working for the railroad, and while they were investigating for power they reported on this other, and while that money was charged to the railroad—

Senator FOSTER. Looking for a site for power?

Mr. GEHR. Did not find it.

Senator THURSTON. Had any money been expended in the way of payment of this engineering party under your brother on their work before you knew of the Parker application?

Mr. GEHR. Yes. Brought them from the East; paid all expenses; had them up there in the mountains; paid right along. I first learned of the Parker application through my brother.

Senator MITCHELL. How did you obtain knowledge of the fact that the Parker proposition had been filed there?

Mr. GEHR. Through my brother.

Senator MITCHELL. Through your brother?

Mr. GEHR. Yes, sir.

Senator MITCHELL. How did he obtain knowledge of that fact?

Mr. GEHR. I don't know, except I remember he had heard it and had come to Honolulu and met me by chance. I didn't know he was coming down.

Senator MITCHELL. You had no idea that anyone else was looking up this at all?

Mr. MCCLANAHAN. Where are these surveys, Mr. Gehr, you spoke so much about?

Mr. GEHR. Which surveys?

Mr. MCCLANAHAN. I don't know. Surveys you spent \$7,000 for.

Mr. GEHR. The Government has a copy; my brother has a copy. The Government's is the original, and they were on exhibition up in the executive council.

Senator MITCHELL. How much of the \$7,000, if any, had you expended before your brother—prior to the time that you had knowledge that the Parker proposition was filed there?

Mr. GEHR. Personally I had had at no time anything to do with the money. My brother had that in charge.

Senator MITCHELL. He knows about it?

Mr. GEHR. He does. I guess he has his accounts.

Mr. MCCLANAHAN. Whose money was it?

Mr. GEHR. His associates in Chicago.

Mr. MCCLANAHAN. Not his money?

Mr. GEHR. I believe part of it was his money.

Mr. McCLANAHAN. Any of your money?

Mr. GEHR. No, sir.

Mr. McCLANAHAN. Any of Colonel Jones's money?

Mr. GEHR. Not that I know of; nothing of any great amount, if anything at all. I think probably Colonel Jones has been to some expense down here.

Colonel PARKER. Did you not stop at Frank Woods's ranch sometimes?

Mr. GEHR. I have never been there.

Colonel PARKER. I thought you were.

Mr. GEHR. I have been up in the mountains, but never at Mr. Woods's place; I always intended to go.

Senator BURTON. You are interested in a railroad?

Mr. GEHR. Yes, sir.

Senator BURTON. Originally Mr. Dillingham got the franchise, didn't he?

Mr. GEHR. Not this franchise; no, sir.

Senator BURTON. He got the first.

Mr. GEHR. He had the franchise before we did.

Senator BURTON. And he surrendered that; allowed you to take another?

Mr. GEHR. We had quite a dispute here at the time, and it ended by Mr. Dillingham withdrawing his objections to the issuance of our franchise.

Senator BURTON. Was it a dispute?

Mr. GEHR. For five months before the executive council.

Senator BURTON. With Dillingham?

Mr. GEHR. With many.

Senator BURTON. What other enterprises have you or your brother been engaged in since you have been on the islands, except the railroad and the ditch?

Mr. GEHR. My brother, as far as I know, in no other. I have been interested in a little tract of land, a small tract of land on the island of Hawaii, planting sugar cane.

Senator BURTON. What other enterprises?

Mr. GEHR. That is all; outside of small matters.

Senator BURTON. Well, what are they?

Mr. GEHR. Interested in a soda water plant which has broken up.

Senator BURTON. What other, if any?

Mr. GEHR. I think there is no other.

Senator BURTON. Had any mercantile interests?

Mr. GEHR. Personally, no.

Senator BURTON. Well, your brother?

Mr. GEHR. My wife at one time had stock in a corporation down in Hilo.

Senator BURTON. What was that?

Mr. GEHR. General merchandise, sir.

Senator BURTON. Is that running now?

Mr. GEHR. No, sir.

Senator BURTON. What else?

Mr. GEHR. I believe that is all. I do not know of anything else I can think of.

Senator BURTON. This money that was spent for these surveys was partly the money of the railroad company?

Mr. GEHR. No, sir. Had nothing to do with it, no connection

whatever with it, nor the men so far as I know, with the exception of myself. There are no men connected with it that are interested in both propositions—except Colonel Jones.

Mr. MCCLANAHAN. Is there trouble existing now in the management of the railroad? You are acting president?

Mr. GEHR. I don't believe there is. There has been, if that is what you are referring to.

Mr. MCCLANAHAN. There has been?

Mr. GEHR. Yes.

Mr. MCCLANAHAN. Been fixed up?

Mr. GEHR. Yes.

Mr. MCCLANAHAN. You had trouble in getting your franchise?

Mr. GEHR. We did.

Mr. MCCLANAHAN. Because there was somebody else in the field when you applied?

Mr. GEHR. I don't know the reasons of our trouble.

Mr. MCCLANAHAN. Was one of the reasons—

Mr. GEHR. I don't care to express an opinion what our troubles were in the railroad matter.

That is all.

A. C. GEHR, recalled.

Senator MITCHELL. Mr. Gehr, when did you first obtain actual knowledge of the fact that Mr. Parker had filed an application with the local government for a license?

Mr. GEHR. It was about the 3d or 4th of June, 1901.

Senator MITCHELL. How did you obtain that knowledge?

Mr. GEHR. We were in our second camp in the Kohala Mountains when my engineer (Mr. Leger) came over with the second engineer (Schmidt) to our second camp. They had remained back while we were organizing the second camp. Mr. Leger came to the camp and told me that some one else was working on the water matter. As he passed the Wall place at Waimea he had heard Mrs. Wall say that her husband had just been called up to Waipio on some important matter. Mr. Leger thereupon entered the room and the conversation stopped. We were almost ready at that time to make our application, as we had practically made up our minds at that time that the thing was practicable. I had just time to catch the steamer coming up, in my mountain clothes. I arrived on Saturday, the first Saturday after the last of May. I went at once to see my brother—went at once to the hotel and discussed this matter—then called upon Colonel Jones, and he thereupon drew up a draft of an application to the Territory for a license to take out this water. I then took it to the land commissioner's office and filed it, and then for the first time I learned that Colonel Parker had an application before the government for this water, and on the same day I learned that Mr. Wall was not investigating the water for the purpose that we had in mind when I got this information from Leger.

Senator MITCHELL. Just what had you done and how much money had you expended, if any, in this ditch business prior to the time you had obtained knowledge of the other application?

Mr. GEHR. Of money? I can not easily tell. My vouchers are in Chicago with Mr. Vawter.

Senator MITCHELL. Tell us what you had done, if anything.

Mr. GEHR. I came from Chicago with the following: Mr. Nelson A. Leger, chief engineer; F. A. Schmidt, second man; Mr. Robert Ran-

dolph, leveler; Mr. W. A. Vawter, jr., who was to assist in the work and to take charge of one of the outgoing parties. At San Francisco I picked up Mr. Milo Goss, who acted as rodman, and also Mr. Carroll Miller, who acted as chainman.

Senator MITCHELL. Now, prior to that time, what knowledge, if any, had you that other parties—either Colonel Parker or anyone—had been in the field investigating?

Mr. GEHR. Absolutely none. I had the expenses of these men, part of them from Chicago to Honolulu and two from San Francisco to Honolulu. The expenses of the party here in Honolulu and down to the island and the expenses of minor supplies and engineering supplies.

Senator MITCHELL. But when you got down here, Mr. Gehr, and entered into the field of investigation, did you then ascertain that nobody was in the field before you?

Mr. GEHR. Not until about the third or fourth of June did I have any idea.

Senator MITCHELL. What did you find out then?

Mr. GEHR. I first had this intimation.

Senator THURSTON. What is the time he says he came?

Mr. GEHR. The third or fourth of June I filed my application and then learned of Colonel Parker's.

Senator THURSTON. Was that the first time?

Mr. GEHR. The first time. I had expended a considerable amount on supplies for engineers in the way of material. I made some further purchases in Honolulu.

Senator THURSTON. How long was that after the application of Mr. Parker had been filed?

Mr. GEHR. I don't recollect the date.

Senator MITCHELL. Did you before going on to investigate, did you examine the record to ascertain whether any other body was in the field before you?

Mr. GEHR. I did not.

Senator MITCHELL. If you had examined the record prior to going in there, of course you would have found that Mr. Parker was in ahead?

Mr. GEHR. I understand not. It was my understanding that no public mention had been made and no record of the application of Mr. Parker.

Senator BURTON. Doesn't the law contemplate or require the applications for a matter of this kind shall be made a matter of record?

Mr. GEHR. I don't know.

Senator BURTON. Do you mean to say you don't know—

Mr. GEHR. I don't know.

Senator BURTON. That the law requires that a record shall be made of the application for a license of this kind that is granted by the Government?

Mr. GEHR. I do not know.

Senator MITCHELL. No license was granted.

Senator BURTON. But the application—the law requires the application shall be filed.

Mr. GEHR. I don't know the law.

Senator BURTON. You made application through Colonel Jones?

Mr. GEHR. I did.

Senator BURTON. Didn't you find then that the law requires the matter to be on record?

Mr. GEHR. The subject has never been mentioned.

Senator BURTON. You are a man with ordinary knowledge of affairs of life. Didn't you know that a license can not be granted without the matter being on record?

Mr. GEHR. If you ask me about those laws in the State of Illinois, I should say I am familiar with them. In Hawaii I am not.

Senator BURTON. You didn't know that a license of this kind could not be made without application?

Mr. GEHR. Certainly not.

Senator BURTON. Before you went in there and spent \$7,000 didn't you think it was proper to make investigations and see whether anybody else had applied for the same thing?

Mr. GEHR. I knew, Senator, several investigations of this matter and I knew they all reported adversely; at least no action was taken. That was my information.

Senator BURTON. When was Colonel Jones first associated in this enterprise?

Mr. GEHR. The statement a moment ago—I want to make myself clear. I knew of these various investigations that had been made. The trouble that had arisen, or rather the delay that had arisen, in the construction of the Kohala and Hilo Railroad Company had, I knew, created a certain prejudice against my brother in the islands, of certain people. It was for that reason that I did not go to the government and ask for a license until I had done something. Consequently we went into the mountains, and then I said I will file my application.

Senator BURTON. Before you made investigation that anybody was before you?

Mr. GEHR. Exactly.

Senator BURTON. When Colonel Jones was interested in this project, when was it?

Mr. GEHR. I understand from my brother that he spoke to him some time—

Senator BURTON. This is not your brother's matter; it is your matter. When did he become interested with you?

Mr. GEHR. He became interested directly upon my arrival in Honolulu.

Senator BURTON. When you made application for a license?

Mr. GEHR. No; prior to that.

Senator BURTON. In what way was he interested? He was not furnishing money, was he?

Mr. GEHR. I stated yesterday.

Senator BURTON. He was not furnishing any money?

Mr. GEHR. Up to that time he had furnished none; no, sir.

Senator BURTON. He became interested when you first came up there to make these surveys?

Mr. GEHR. I think he was interested before that time.

Senator BURTON. Was he to furnish money?

Mr. GEHR. No, sir.

Senator BURTON. What was he to do?

Mr. GEHR. I am trying to state.

Senator BURTON. Well, what was he to do?

Mr. GEHR. He was a man of position here; a man of influence.

Senator BURTON. What was he to do?

Mr. GEHR. On account of his position here, a man of influence—

Senator BURTON. What was he to do?

Mr. GEHR. To render us such assistance or——

Senator BURTON. To get the license?

Mr. GEHR. I have not finished. We wanted him to come in to a considerable extent on account of personal feeling——

Senator BURTON. To get the license?

Mr. GEHR. To get the license and any other way. He was a citizen of Honolulu.

Senator BURTON. A citizen of Honolulu could not be of any assistance to you except to get the license.

Mr. GEHR. I know, but later on.

Senator BURTON. Was Colonel Jones interested with you before you spent \$7,000? A man of influence, you say; why didn't you have him examine the record and find if there was anybody else before you?

Mr. GEHR. For the simple reason we did not think that anyone else was in the field for this work. These other plans had been turned down and dropped.

Senator BURTON. If Colonel Jones was interested in this prior to your going up there, and you and your brother were to furnish the money and he was to furnish the influence and experience, why not have him examine the record?

Mr. GEHR. We didn't consider it necessary. That idea never came into my mind. I should estimate roughly that prior to the third or fourth day of June, 1901, I had expended in the neighborhood of between \$5,500 and \$6,000.

Senator BURTON. Prior to what time?

Mr. GEHR. Prior to the 3d or 4th of June, 1901.

Senator BURTON. Well, you have stated that.

Mr. GEHR. I have not stated the amount. I was just about——

Senator MITCHELL. That was prior to your knowledge of the other application?

Mr. GEHR. Prior to the first time I have heard of it.

Senator BURTON. And prior to the time when you had made any investigation to see whether anybody else had applied for that?

Mr. MCCLANAHAN. Have you any profession or trade?

Mr. GEHR. No, sir; just a plain common business man.

Mr. MCCLANAHAN. What business have you been engaged in?

Mr. GEHR. I was engaged considerably in the real estate business.

Mr. MCCLANAHAN. Are you not a promoter?

Mr. GEHR. No, sir.

Mr. MCCLANAHAN. Your brother is mistaken when he says you are?

Mr. HERBERT GEHR. I did not say he was.

Senator THURSTON. He said he never promoted anything until this enterprise.

Mr. MCCROSSON. You stated that on the 3d or 4th of June was the first knowledge you had of Mr. Parker's application for a license?

Mr. GEHR. It was about that time.

Mr. MCCROSSON. It was after that, after you first obtained this knowledge, that you communicated the fact to your brother that there was an application in?

Mr. GEHR. No; it was on the dock of the Wilder Steamship Company where he met me, and I told him this rumor of Mr. Wall's that someone was interested in water. We then drew our application and took it to the land office, and then I learned of Colonel Parker's application.

Mr. MCCROSSON. Then that was after the 3d or 4th day of June that you communicate with your brother?

Mr. GEHR. I communicated that first news to my brother about the 1st of June.

Mr. McCROSSON. You just stated that you did not know of the application in here.

Mr. GEHR. I said I first learned of Colonel Parker's application about the 3d or 4th.

Mr. McCROSSON. Did you learn of any other application before that?

Mr. GEHR. I learned of no application. I learned that Mr. Wall had gone up to Waipio to investigate some large water claim.

Mr. McCROSSON. How did you reconcile your brother's statement that it was in April or May that you first told him of Colonel Parker's application?

Mr. GEHR. I don't attempt to. I will state that my brother had very little to do, nothing to do, with the field work of this; that I was in entire charge, and the circumstances under which I learned this information, and the fact that I came up to Honolulu. Under these circumstances it was more likely to be impressed upon my memory. It is fifteen or sixteen months ago, and it would be easy for him to forget.

Colonel PARKER. Did you say that Colonel Jones was a man of influence? Is that the reason you took him in with you?

Mr. GEHR. I knew Colonel Jones as a man of influence and prominence.

Colonel PARKER. Court stenographer, as general, or whatever it is of the army?

Mr. GEHR. As a citizen of the city of Honolulu.

Senator MITCHELL. We will consider the subject closed, so far as the ditch business is concerned.

Mr. GEHR. I wish to hand in something in writing.

Senator MITCHELL. Mr. Gehr will have the privilege of handing in a letter.

Senator THURSTON. Since the matter of this railroad has been brought up, I will ask Mr. Smith to make a brief explanation.

W. O. SMITH, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. SMITH. Fifty-four; residence, Honolulu; occupation, lawyer.

Senator MITCHELL. Are you a native of these islands?

Mr. SMITH. I was born here.

Senator MITCHELL. How long have you lived here?

Mr. SMITH. All my life.

Senator MITCHELL. Are you thoroughly acquainted with the conditions here?

Mr. SMITH. I am.

Senator MITCHELL. State in what capacity you are called in before the committee and on what subject.

Mr. SMITH. I acted as attorney for the Kohala and Hilo Railroad Company in applying for a license on the island of Hawaii, and also preparing the contract which is required under the law whenever they have the right of eminent domain for right of way. They wished to have the right to build a road from Hilo to Mahukona, a distance of 100 miles.

Senator MITCHELL. State what positions you have held, if any, under the monarchy, under the Republic, and under the present régime.

Mr. SMITH. Under the monarchy I was sheriff five years of Kauai and Maui, ——— marshal for many years, and under the provisional government and Republic attorney-general for six years. I hold no public office now.

Senator BURTON. Are you out of office?

Mr. SMITH. I have not been in. I resigned two years ago.

Senator MITCHELL. You have been called to the stand by the attorney representing one of the parties in the ditch controversy. You can proceed.

Mr. SMITH. He spoke to me in regard to the controversy between him and Mr. Dillingham about the railroad franchise on the island of Hawaii; before this franchise was granted to the Kohala and Hilo Railroad Company Mr. Dillingham and others had obtained a franchise to build a railroad on the island of Hawaii, on the whole island, and had begun to build a road from Hilo to Puna. Mr. Gehr and his associates wanted the right to build a road. I should say the road from Hilo to Puna goes south. The road which Mr. Gehr and his associates wished to build was from Hilo north.

Senator BURTON. To K-a-w?

Mr. SMITH. Kawaihae. Mr. Dillingham had no exclusive franchise, and when the application was made to build this road going north from Hilo the governor wanted to know whether it would conflict with the other road. Mr. Dillingham and his associates at first objected to the granting of this franchise. While they did not have the exclusive franchise, they still thought it might be possible that they would like to build around the north side as well as the south, but finally they withdrew all objection, and then after a deal of consideration and after careful conditions, more restricted conditions than the Dillingham franchise, granted to Mr. Gehr and John Brown and others the franchise to build a road from Hilo to Kawaihae. Then they were to go on from there to Kohala. The location of the road was to be subject to the approval of the governor.

Senator MITCHELL. What is that to-day; what is that controversy?

Senator THURSTON. I don't know what this has to do with the ditch matter.

Mr. McCLANAHAN. The committee pointed the way for it.

Senator MITCHELL. I don't see that it has much to do with this controversy.

We will consider this matter closed, subject to right of Mr. Gehr to present any other material.

FRIDAY, *September 12, 1901.*

Senator MITCHELL. This morning was assigned originally to the chamber of commerce, the planters' association, and the merchants' exchange. We will now hear from the chamber of commerce.

WILLIAM G. IRWIN sworn.

I would like to make a brief statement in connection with the chamber of commerce.

I am president of the chamber of commerce and was also delegated as chairman of the committee which was appointed to be present at this meeting. I would say, however, that it has come to the knowledge of the chamber of commerce that there are many important organizations who have prepared papers to be read on subjects which would be touched on by the chamber of commerce. As man

these gentlemen who belong to these organizations also belong to the chamber of commerce, we thought it best to wait until these papers had been read, then to answer, giving our views on these matters. To-day there is present the planters' association. They have a statement ready if it would be agreeable to you to hear it. Also the bankers have a paper on the coinage question, and the merchants' association. These three organizations have appointed a spokesman to speak before your committee. The statements are written and ready.

For the planters' association Mr. Swanzey has a paper.

FRANCIS SWANZEY sworn.

Senator MITCHELL. State your name, age, and occupation.

Mr. SWANZEY. Francis Mills Swanzey. Age, 52; occupation, merchant. I am one of the trustees of the planters' association.

Senator MITCHELL. Of whom is this planters' association composed?

Mr. SWANZEY. That is told in the preamble of this statement.

Senator MITCHELL. You have a statement now you wish to present?

Mr. SWANZEY. Yes.

Senator MITCHELL. Yes. All right, you may proceed.

Mr. SWANZEY. The statement that I now take the liberty of presenting deals exclusive—almost exclusively with the subject of labor. (Reads.)

Since this paper was written one of the trustees of the association has handed me these figures, which I will leave with you. (Referring to additional statement with the paper.) They show very fully the arrivals and departures of Chinese since the organic act came into force, on the 14th day of June. From that it appears that the total arrivals of Chinese in that time were 1,903, total departures 3,470; of Japanese 6,006, and total departures 6,284. That makes the arrivals of the Chinese and Japanese taken together 8,909, and the departures 9,754, from June 14 of 1900 to June 30, 1902.

Senator FOSTER. How does the yield of coffee compare with other coffee countries?

Mr. SWANZEY. That, sir, is a question I am unable to answer. I am not familiar enough with the raising abilities of other countries; but I know a gentleman here who for some time was engaged in the coffee industry in India, and he said that such trees as they had here on some of the coffee plantations were not to be equaled, and that he saw no reason why it should not be a success. The trees were far better than he had seen in India.

Senator BURTON. Who is the best-posted man on the islands here to give us information here about coffee growing?

Mr. SWANZEY. What is it you particularly want to know?

Senator BURTON. I will tell you what I have in mind. I want to know if it is the universal opinion that you ought to have a tariff on coffee?

Mr. SWANZEY. Well, the coffee growers think so.

Senator BURTON. Do you think so?

Mr. SWANZEY. I do.

Senator BURTON. Now, if it should be advised to press for a tariff on coffee, which you will see would meet with great opposition on the mainland, because everybody drinks coffee and we don't grow it, and it would not be thought that your islands could produce enough coffee to supply the mainland, I should like to know for myself how much coffee you could be growing here at the end of ten years or fifteen

years if you had a tariff on coffee, a proper tariff, if there is anyone on the islands here—I don't mean to-day—that could give us an accurate estimate. If we could say to the people on the mainland, "if we put a tariff on coffee for a certain period, we will be producing to supply home consumption." Now, if we can produce enough coffee to supply the mainland, we would be promoting American industry and American labor, and hence it means that it meets the favor of the Republican party. I don't like to bring politics in here, but of course that is one thing that our party stands for, the principle of protection when it can be shown that by that protection we can build up an industry. Now, if you can furnish us with correct information, not speculation, not guesswork, but show the acreage, show what it will produce if you can have a profitable market for your coffee, we would like to have that; I would like to have it for myself.

Mr. SWANZEY. Senator, such statistics would be—such estimate would be most difficult to get together, because the whole thing depends upon labor.

Senator BURTON. I am coming to that next.

Mr. SWANZEY. If we had a sufficient supply of labor it is quite possible that we might be able to raise coffee profitably, but without a sure supply of labor in sufficient quantities to induce men to go back again in the coffee who have left it, it is not likely that many people would engage in it.

Senator BURTON. Let me ask, do you have any labor unions on the islands?

Mr. SWANZEY. I think so.

Senator BURTON. Do you have? Well, is organized labor here opposed to restricted Chinese immigration, or does it favor it?

Mr. IRWIN. If you will allow me to say so, the merchants' association touches upon that subject.

Senator BURTON. You say you gentlemen are practical men. You are acquainted with the fact that there is opposition to Chinese immigration to our country. You know because we passed the bill. Now, you want to get Chinese labor here. I see that from your statement. Now, can that labor be brought here without in any way opposing labor unions or skilled labor?

Mr. SWANZEY. In reply to that question I would say that not only is skilled labor not opposed to the immigration of Chinese field laborers, but that it will favor greatly such a measure; that is to say, that the work that Chinese laborers will do here gives work to white men.

Senator BURTON. Now, some criticism has been made before the Commission to this contractual system of labor. Let me ask you if in a general way laborers are mistreated who come from other countries here and are employed upon the plantations or are they treated as well as possible?

Mr. SWANZEY. Any statement to the effect that laborers are ill treated on the plantations of these islands is entirely false; absolutely, entirely, and unequivocally false.

Senator BURTON. The planters are interested in keeping laborers in good health and keeping them in such a way that they can hold them?

Mr. SWANZEY. There are no different conditions for the laborer in Hawaii than on a farm on the mainland in that respect. He does a day's work and gets a day's pay. If he is tired or sick and does not work, he does not get his pay. If he does not like to work he goes away. But so far as ill treatment is concerned, there is neither sense nor reason in it. The finest body of men in the country is engaged in

this industry. They are gentlemen in every sense of the word and a great many of them are exceeding clever men, as a manager of a plantation must be who has to be an organizer, accountant, engineer, mechanic, chemist—all in one. That is the kind of men they are. The men who work under them are not mistreated. On the contrary, the laborers of these islands are well cared for and well treated.

Senator BURTON. That law that you formerly had here, as I am advised, was that a laborer who contracts to do a certain amount of work and broke his contract, that you could put him in jail, is no longer in force on these islands.

Mr. SWANZEY. It is no longer in these islands. There was a masters and servants act, an old law in Hawaii. Under that servants bound themselves to serve masters and employers. If, for any reason, they deserted the employers they could be punished and I think they could be put into prison. In the first place allow me to say this: Let it not be supposed that we kept a lot of slaves and were nothing but slave drivers. There has been some talk. It is not true, absolutely not true.

Senator BURTON. I don't think the idea prevails, but there is a little of it.

Mr. SWANZEY. I was going, Mr. Senator, if you will allow me to do so, to briefly refer to a few statements made before you the other day, because it is not a pleasant business, and it is a very unprofitable one to turn aside or try stones that have been thrown, but it is sometimes necessary to do so. In justice to the sugar industry of this country and to the fine body of men engaged as plantation managers and other plantation work, I think it is only right that the statements that were made should be—that we should be allowed to respond to the statements.

Senator MITCHELL. Proceed to answer any statement in your own way.

Mr. SWANZEY. One statement was made that the laborers' houses were unfit for habitation. You, gentlemen, are in the country, you can see for yourselves about that. We consider that the laborers' houses on our plantations are very good.

Senator BURTON. Are the houses on Ewa plantation an example? They are certainly good enough for anybody to live in.

Mr. SWANZEY. I think so. On any of the plantations I don't think there are any very much worse.

Senator MITCHELL. They are a pretty fair sample?

Mr. SWANZEY. I think so. I have not been on Ewa plantation for some time, but I know, as a well-organized plantation, it must have good quarters and good habitations.

Senator BURTON. The protection of labor—I do not want to reflect on any section of our country—the protection of labor is more of a Northern idea than a Southern idea. Slavery was practiced in the South, and the condition of the negro was different from the laborer here. I want to get at the absolute truth about this matter. Are not the laborers who want to come here—would they not be well treated? Wouldn't the cause of labor suffer if they did not come?

Mr. SWANZEY. I believe it to be so. It has been stated that the food supplied is not fit for human beings. The plantations do not and never did supply their laborers with food. They are paid their wages, and they find their own food. While some people of fastidious and not oriental taste may think that the food—the Japanese food—is unfit for human beings, at the same time it is a matter for them to

determine. The plantations have nothing whatever to do with the supply of food to the plantation laborers except in so far as this: When the Japanese first came here they were not accustomed to eat meat, and they—I suppose because meat is expensive in Japan; at all events, by the facts—they did not eat meat. It was always recognized here that men could not do their work if they did not eat some meat, and so the plantations gave them meat which was good meat—some of it came from Mr. Parker's ranch—and it was supplied to them without cost until such time as they had acquired a taste for it, when the supply without cost was discontinued, and they bought it. They buy this now.

It has been stated that sincere efforts were never made to procure white labor. I think the paper which I had the privilege of submitting to you proves that not to be true. Efforts have been made to secure white laborers. I think—I am not quite sure—I think the first white laborers brought here came in 1881 from Sweden and Norway. A Captain —— had interests at that time in the sugar business here and he went there. Away back in the sixties efforts were made to bring white people here, but they were always failures, unfortunately.

Senator MITCHELL. Has the question been considered, trying to secure negro labor from the South?

Mr. SWANZEY. Yes, sir. We tried to secure laborers from the South, and did bring a few here, and had a great deal of difficulty in bringing them here.

Senator MITCHELL. You are speaking of Portuguese; I mean the Southern negroes?

Mr. SWANZEY. Yes, sir; we tried. One of the trustees went to the—I don't remember where, but at all events went to one of the States for the special purpose of procuring negroes to work, and had a very hard time and met with very little success.

Senator MITCHELL. No disposition to come, or what?

Mr. SWANZEY. No disposition to come, and those that did come were not a good class.

Senator FOSTER. Did they remain?

Mr. SWANZEY. Some of them are still here and some have gone away.

Senator FOSTER. Did they make good laborers on the plantations?

Mr. SWANZEY. No. We have not had any. Messrs. Alexander and Baldwin are not here. They would be able to say.

Mr. W. O. SMITH. Most of them were sent to the Spreckelsville plantation. They gave a great deal of trouble. When they could not quarrel with anybody else they quarreled with themselves. A number of them landed in jail. There are several in jail yet. Most of them have gone.

Senator FOSTER. What was their reasons for not working?

Mr. SMITH. General indisposition, I think. I think they came out with the idea of making their fortunes.

Senator MITCHELL. They were not lazy, but they did not like to work?

Mr. SMITH. They liked to fight and everything else more than work.

Mr. SWANZEY. There were statements made concerning labor appropriations, government labor appropriations. I should say a large amount of these appropriations were applied to the introduction here of the Portuguese, who are at present so valuable a portion of our population. The records have been overhauled, apparently, to find

instances of cruelty on the part of managers, and they have only been successful, so far as I understand from public experience, in producing two isolated cases which took place away back in 1897, one on the island of Maui and one on the island of Kauai. Of course, of the merits of these cases I pretend to know nothing. At the time that laborers came here under contract the government took a great deal of pains to see that they were well treated, for which reason this agent or secretary of the board of immigration made periodical trips to see the condition of the quarters, their health, and so on, and if he found anything he noted it. So far as I can find out, and he traveled over all these islands, he only found two occasions where laborers were not treated properly. I think probably he found them all.

Senator MITCHELL. Both five years ago?

Mr. SWANZEY. 1897; about six years ago. These officers were appointed for the special purpose of investigating complaints and to see particularly after the welfare and well-being of the laborers. I might also say that the Japanese Government had at that time, during the existence of the contract system, they had inspectors here who journeyed also up and down through the country. It was their business to see that all Japanese were lawfully treated, and to go hither and thither through the country and see that their countrymen were properly treated. I should also say that these contract laborers came here to a very large extent on account of the wish of the Japanese Government that they should do so. It is a paternal Government. They wanted to be assured when the men left Japan that the men would be employed for three years, and that was one of the reasons why the contract system prevailed.

Senator FOSTER. Do you know of any instances where men sent to investigate conditions here found cases?

Mr. SWANZEY. I do not myself know of any such. The statement has been made that the employees of the several nationalities were subject to espionage and brutality. I will say that is an untruth.

It was also said that many hundreds of Japanese were brought into the country in anticipation of annexation. Now, as the time of annexation was coming the Japanese were also coming. That they were coming into the country in larger numbers than they had before I do not think is so. At all events, be that as it may, the local authorities here considered that certain of them were not entitled to land because—at any rate they were not allowed to land, they were sent back again. So far from trying to encourage these people, three shiploads, 3,000 Japanese, were sent back to Japan and damages paid to the Japanese Government to the extent of \$75,000 for sending them back.

Senator FOSTER. Under the direction of the collector of customs?

Mr. SWANZEY. Yes; he has the exclusive right.

Senator FOSTER. What grounds?

Mr. SWANZEY. Mr. Smith knows.

Mr. SMITH. Before annexation we had restrictive immigration laws for the Chinese and Japanese, which required so many as required by law. On recommendation of the board of immigration the minister of the interior could grant terms for certain number to come in. They were restricted to agricultural and industrial labor and were not to become mechanics. The steamer *K - Maru*, for some reason, probably permitted by the Japanese Immigration Company or those interested in the Japanese steamer lines, the number of steamers sent without regard to that law. Before annexation there was no

room to take care of them at the quarantine island, and with infectious diseases, etc., they were required to go there.

Senator MITCHELL. For failure to comply with the then existing law?

Mr. SMITH. Yes. Complaint was made at Washington and indemnity of \$75,000 was paid, and the local government felt that it was severe and unjust. At the same time, it was done. These Japanese immigration people were perfectly conversant with the law, and they had been acting under it for years.

Mr. SWANZEY. A very direct reference was made to the Porto Ricans and the conditions which they were in when they arrived here, the intention evidently being to lay the blame of their conditions on the plantations.

Senator MITCHELL. You refer to the statements before this commission?

Mr. SWANZEY. I do. We knew at the time that the Porto Ricans were brought here that they were not in physically good condition, and we were not at all surprised to find when they arrived here that they were in very poor physical condition. We did a very good thing for those Porto Ricans when we brought them here. We brought them to New Orleans and overland from New Orleans to San Diego, and from San Diego down here by steamer. From the time they left Porto Rico until they arrived in Honolulu they were served with three square meals every day. A special doctor came every trip—in some cases, two doctors—and their medical wants were looked after. There were interpreters, so that there was no difficulty in finding out what they wanted. As soon as they arrived here and went on the plantations it was very soon discovered that there was not very much work to be expected from them for some time, and so without exception those plantations then began to feed those fellows at their own expense—at the expense of the plantation. They were so ignorant of the first principles of life that they hardly knew how to eat. They had evidently eaten nothing but yams and crackers. The plantations encouraged them to eat—bought flour and hired Portuguese women to teach them to make bread. When they acquired the art of making bread they got along better. At Lihue, Kauai, they established a big kitchen where these people got a dinner of vegetables and meat especially cooked for them. The fact that they arrived here in an emaciated condition is not to be laid at the doors of the Hawaiian sugar planters.

Then the statement was made as to white mechanics living in competition to the Asiatic. There are mechanics whose chief object in life seems to be growling, always growling. Then they rush to a Chinese tailor because a white tailor charges more than they want to pay. A little while ago there was a great deal of work here, consequently a great many mechanics came from the mainland of the United States. Now the work that those men came to accomplish, to a very large extent, is done. It was so with the Honolulu Iron Works, of which I am one of the officers. They have large machine shops and boiler shops and foundry. When work is plentiful there is an increase of labor, and when work is slack that will let these men out.

Senator FOSTER. They do that everywhere.

Mr. SWANZEY. As there is no other iron works here, those men have to go back.

Senator MITCHELL. Tell us about the iron works.

Mr. SWANZEY. Well, the iron works —

Senator MITCHELL. What is the name?

Mr. SWANZEY. Honolulu Iron Works Company.

Senator MITCHELL. Is it a corporation and what is its capital?

Mr. SWANZEY. It is a corporation and the capital stock is \$500,000. There is a machine shop, blacksmith shop, boiler shop, and foundry. It covers 6 acres of ground.

Senator MITCHELL. How many men do you employ?

Mr. SWANZEY. It varies according to the number required.

Senator MITCHELL. What is your capacity?

Mr. SWANZEY. Well, we have had as many as about 500 men there.

Senator MITCHELL. What kind of men?

Mr. SWANZEY. White mechanics, with the exception of Hawaiians. Some Hawaiians work there. I think there are 5 Hawaiian mechanics there, and any labor that is required, just rough labor, all Hawaiians and some Portuguese.

Senator MITCHELL. No difficulty in getting the necessary amount of labor?

Mr. SWANZEY. That is the kind of work the Hawaiians like. The skilled labor is always white. We would be pleased to furnish further details.

Mr. SWANZEY. As I say, American mechanics come and go, and if a man says that 500 men have gone away because they have been shoved out by Asiatics, it does not at all follow that because 500 white men have gone that they have been sent out by competition of Asiatics. It simply means that the demand has changed.

Senator FOSTER. What is the value of labor? What do you pay boiler makers?

Mr. SWANZEY. I am not able to say, positively. Robert Cattin pays boiler makers at \$4.50 a day of nine hours; machinists, \$4; foundrymen, \$4—\$4 to 50 cents.

I have spoken of the iron works. You have noticed the large building—the Young Building—that large building on Hotel street there. Now, the men who constructed that building came from the coast. The men who put that stone up all came from the coast; the stone came from the coast, too. The men to construct that building all came from the coast. As soon as they had done their work they pocketed their money and they went away. We are told that these unfortunate stone masons are being sent out of the country because of Chinese or Asiatics. It is perfectly absurd. They came down here to put up a stone building, and stone buildings are not put up here every day in the week. I don't mean to say that there is no work for the Japanese and Chinese carpenters, because they do work, but I say they will not force a good white mechanic out of the country as long as there is work for him. There was a building boom and a number of carpenters were engaged and then went away.

It has been said that no effort has been made to introduce American laborers here, except the Portuguese. I have laid before you the statements concerning the efforts made to introduce labor here; you know what we have done in that respect. The strictly American-American will not work in the cane field. The Hungarian-American or the Portuguese-American may, but the American-American will not.

Senator MITCHELL. What is the amount now paid on plantations, and how does it compare with the average amount about five years ago?

Mr. SWANZEY. I should say it was considerably higher.

Senator MITCHELL. What is the average wage paid now to plantation laborers?

Mr. SWANZEY. About \$18 a month.

Senator MITCHELL. What else do they receive, if anything?

Mr. SWANZEY. They receive free house, free water, free fuel, and free medical attendance and medicine.

Senator MITCHELL. What does it cost you to lay a ton of sugar in San Francisco?

Mr. SWANZEY. The freight by sailing vessel I think is \$2.75.

Senator MITCHELL. From here to San Francisco, freight charge per ton?

Mr. SWANZEY. Per ton of 2,000 pounds. Regarding wages, I might say this. They vary a little according to the position of the plantation. For instance, in Hamakua district—it is a district lying about between the north of Hawaii and the town of Hilo—they are a considerable distance from town, and laborers like to be close to town. They are a considerable distance from town. They have to be paid a little higher. I think their wages are \$19. It is safe to say the average is \$18. It has been said that wages are docked.

Senator MITCHELL. Holding them up—holding wages back?

Mr. SWANZEY. No such thing is possible. The plantation laborers are just like laborers in any other concern.

Senator MITCHELL. Weekly or monthly?

Mr. SWANZEY. Monthly. They do a certain amount of work, and they receive certain amount of pay. A man does a day's work and gets a day's pay. If he does not work no wages are paid him.

Senator MITCHELL. What is the average day?

Mr. SWANZEY. Ten hours in the field.

Senator MITCHELL. In these large mills how many shifts are there?

Mr. SWANZEY. In some of them, working night and day, three.

Senator MITCHELL. Stop on Sundays?

Mr. SWANZEY. Yes.

Senator FOSTER. They work twenty-four hours?

Mr. SWANZEY. Yes; sometimes, according to the circumstances. When the sugar season commences the object of every manager is to get the sugar out as quick as he can. If he can do it with two or three shifts, he does it. If he can not, of course, he can not.

Senator MITCHELL. What is the acreage in cane—cultivated in cane?

Mr. SWANZEY. I could get that for you.

Senator BURTON. Any reports?

Mr. SWANZEY. Yes.

Senator BURTON. How many plantations?

Mr. SWANZEY. Fifty-two plantations and 46 factories. Some small plantations have not got their own factories; they sell cane to the adjoining one.

Senator MITCHELL. Proceed.

Mr. SWANZEY. I think that is all. No. It has been stated that Asiatics receive work which should go to white men. I am unable to find any instances of that. A number of people here give work to Japanese because—as far as the Chinese are concerned they are practically out of it—they give work to Japanese because they can't get white people to do it. The naval department—this work here is all Japanese work. Admiral Merry, when he gave these contracts to the Japanese, gave them because he could not get white men. It does not at all follow because you see Japanese that of necessity the white man has been shoved out of the job. As I said once before, and I repeat it now, a white mechanic in this country who is worth his salt, or who is worth anything at all, worthy of the name of a mechanic,

can get work here as long as there is work for his class to do. When there is no work the man must go away.

Senator BURTON. I want to ask a question or two. You have stated that sugar is your greatest industry here and that your great difficulty is in introducing labor?

Mr. SWANZEY. Yes.

Senator BURTON. Now, with proper labor conditions here, as you have spoken, you feel that you could compete with any place in growing sugar?

Mr. SWANZEY. Yes, sir.

Senator BURTON. But with the door open to cheap labor in Cuba and closed to you here you feel that your industry is at a disadvantage?

Mr. SWANZEY. Well, of course I am not at all familiar with the conditions that exist in Cuba. I can not say positively as to that. I should think in a general way, with the doors open to cheap labor in Cuba and shut to us here, that we would be under very great disadvantage.

Senator MITCHELL. And a reduction in the tariff on Cuban sugar at the same time.

Senator FOSTER. You want to go into the cost of sugar as compared with Cuba?

Senator MITCHELL. What would it cost to produce a ton of sugar here?

Mr. SWANZEY. According to the plantations. All corporate plantations publish a statement, and it usually states what the cost of production is, so that to say it is \$35 or \$60 would not cover the ground.

Senator MITCHELL. Are you able to state the average?

Mr. IRWIN. I could give you the last corporate exhibits of plantations showing that in a moment.

Senator FOSTER. With the difference in the cost of sugar in the different plantations; is it great?

Mr. SWANZEY. Yes.

Senator FOSTER. Give the extremes.

Mr. IRWIN. Sometimes it costs \$60—where the mills are not supplied with modern machinery.

Mr. SWANZEY. If the mills are old; the majority of mills are not altogether new.

Senator BURTON. I don't want to recognize classes or anything of the kind, but I do want to get at the facts. Is there a sentiment among the native Hawaiians against allowing Chinese laborers to come in here for agricultural purposes only?

Mr. SWANZEY. There are people who can answer that question better than I can—people more intimate with the Hawaiians. My own opinion is that they have no adverse sentiment toward the Chinese.

Senator BURTON. I mean for that particular purpose.

Mr. SWANZEY. I should think not, if allowed to come here under restriction.

Senator BURTON. Is there any sentiment for that purpose?

Mr. W. O. SMITH. On the contrary, it is a positive benefit to have them come here, for various reasons. The more field work there is the higher class of work they have. The Chinese cultivate the rice land. They rent the land from natives who have kuleanas (small holdings). In many cases the entire support comes from the rent the Chinese pay in cultivating rice, which the Hawaiians can not do. The Chinese and the Hawaiians intermarry and the Hawaiians do not

object to the Chinese coming, because they derive so much benefit from it, and there is hardly an evil result to them. In many instances it is encouraged among the Hawaiians.

Senator FOSTER. The Hawaiians look with favor on the Chinese?

Mr. SMITH. They look with favor on the Chinese.

Mr. IRWIN. I employ many natives in connection with the steamers. They are excellent laborers in anything of that kind. They are paid \$2 a day when they work in the day between 7 and 9, and 50 cents an hour overtime. I have known them to work all night after a day's work and make \$6 or \$7 when a steamer was in. The through steamers very often arrive in the night, and they have to work in the night. On Sunday from 7 until 5, with an hour's nooning, they get \$4, and for every extra hour 50 cents an hour extra. Even then I can not get native Hawaiians. I have orders to employ them first—to give them the preference. There are 100 to 150, and then I fill up with Portuguese, white men, or anything that comes along. The natives like that class of work and are strong; they make excellent longshoremen. That class of work, with the inter-island steamers going as often as they do, practically uses up the floating population of the natives. The difficulty is to get all we want even at that rate.

Senator MITCHELL. Mr. Swanzey, you wish us to understand you represent the Planters' Association.

CECIL BROWN, sworn:

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. BROWN. Cecil Brown; 52 years of age; residence, Honolulu; occupation, attorney at law; also in the banking business.

Senator MITCHELL. State, Mr. Brown, what interests or what association, if any, you represent in coming before the committee.

Mr. BROWN. I come on behalf of several banks doing business in this city, in relation to the coinage in the redemption of the Hawaiian silver from its present standing; that is, into American coin, United States coin, to be sent down here in its place. In that line, I have a paper prepared which I now would like the privilege of reading. (Reads.)

Senator MITCHELL. What is the weight and fineness of these coins?

Mr. BROWN. Precisely the same as the United States.

Senator BURTON. Signed by all the bankers?

Mr. BROWN. By all.

Senator BURTON. That is your position?

Mr. BROWN. Yes.

Senator FOSTER. Is there a Government depository here?

Mr. BROWN. This First National Bank is the United States Government depository. All the departments of the United States deposit their money with us.

Senator FOSTER. Are you president of that bank?

Mr. BROWN. I am.

GEORGE SMITH, sworn:

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. SMITH. Forty-three years of age; residence, Honolulu; occupation, druggist.

Senator MITCHELL. State for what you appear before the committee.

Mr. SMITH. For the Merchants' Association of Honolulu. It represents 48 mercantile firms here.

Senator MITCHELL. Have you a paper prepared?

Mr. SMITH. I have. Before reading it I would like to say that there has been no consultation between us, even though in action we have gone together. Very much that appeared in the other papers, especially Mr. Swanzey's, also appears in this one. (Reads.)

Senator MITCHELL. What proportion of these claims arise from the district that the board of health intended to destroy as compared to the whole amount?

Mr. SMITH. Definitely I could not state. I was a member of the board of health at that time. I should say that very few claims were due to actual fires ordered by the board. Probably the greater portion, probably 90 per cent, are from the fire getting away from the fire department at that time.

Senator BURTON. What is that amount in the aggregate?

Mr. SMITH. Total amount of the fire claims? The total amount of property destroyed included clothing and actual loss of property.

Senator MITCHELL. I think it advisable that we have all the facts bearing on the payment of these claims. Back at Washington the Senate last year inserted a provision in the appropriation bill. It was stricken out in the House. It is advisable that we be fully advised of all the facts to be considered in coming to a conclusion in regard to the payment of these claims.

Senator BURTON. I think I may say, Senator, that it was passed in the Senate with reluctance. The committee—most of us—felt that if it had been a personal matter we would hardly have paid that bill on the evidence we had. A legislator ought not to pay a bill which he would not pay out of his own pocket if it was to him. Hence we want the truth in these claims. We want to know the true care exercised in taking care of those who were supposed to be or had to be kept in quarantine.

Mr. SMITH. That does not enter into this. That was paid by the Territorial government. This is simply for the property destroyed.

Senator BURTON. It bears on the claim if it is shown that there was great improvidence by that Territorial government. I am not saying that there was. I don't know anything about it. It is well for us to be advised about it. If you were wasteful and extravagant in case of panic with such a calamity coming on I would not use an apothecary's scales for measurement. If there was wanton extravagance it would bear very materially upon the parties presenting claims for their losses. So that the facts as they are, whatever they may prove, would justify or show what justification there was, and should be presented to us, because there is never any danger in the facts.

Mr. SMITH. Even on that direct point, however wanton, if such were the case—however wanton the expenditure of the board of government officers, all that expense was paid locally.

Senator BURTON. I am not saying so. I am not saying if you were wasteful in the exercise of judgment. I am not saying that. Just give us the whole truth.

Senator MITCHELL. I voted for that appropriation.

Senator BURTON. So did I.

Senator MITCHELL. I voted mainly on the ground that you people had been deprived of your revenue by customs. If it had not been for that, I would not have voted for it, on the ground that it would establish a very bad precedent. There might be a fire in New York. The fire gets away and destroys two or three blocks in the heart of the city, more than the Government has ordered, and they could come to

Congress for help. It would make a bad precedent. At the same time I realize that this is an exceptional case, and it being exceptional, I have permitted myself to vote for the appropriation. As I say, it will be antagonized; was in the Senate. It will be in the House. They ought to be in possession of the facts bearing upon the subject.

Senator BURTON. There will be questions asked, and if we can not answer these questions the imagination begins to say these things are true. There may be nothing in it; it may be pure imagination. The best way is to have the whole truth, and then if there were some mistakes made we can see them.

Senator MITCHELL. Proceed Mr. Smith.

Mr. SMITH. (Reads.)

Senator BURTON. Who is the best-posted man here on coffee?

Mr. IRWIN. I know something of it.

Senator BURTON. Just let me ask one question. Suppose we put a bounty on coffee. Suppose we put a bounty on for the protection of Hawaiian coffee?

Mr. IRWIN. That is equivalent to a tariff on foreign coffee. I have a little ranch producing 25 or 30 tons. It costs 5 cents a pound to pick and clean it.

Senator BURTON. Suppose the labor question was settled here?

Mr. IRWIN. That would help.

Senator BURTON. Then suppose you had a bounty?

Mr. IRWIN. Either a bounty or a tariff on foreign coffee. Then we could do something if coffee were 18 or 20 cents a pound. To-day that same coffee which sold at 15 to 20 cents is selling at 8 and 10 cents a pound.

Senator MITCHELL. What does it cost you to produce it?

Mr. IRWIN. It costs me about as much to harvest it as what I get for it.

Senator BURTON. You are raising it for fun?

Mr. IRWIN. Yes; I am raising it for fun.

F. W. MACFARLANE, sworn:

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. MACFARLANE. Age, 48; residence, Honolulu; occupation, merchant.

Senator MITCHELL. State what organization, if any, you represent in coming before the committee.

Mr. MACFARLANE. I am president of the Merchants' Association, but owing to recent illness the vice-president attended to the wants of of the association. I am here, Mr. Chairman, to speak a word in connection with the fire claims, and to say to the commission that I would suggest that as the work involved a great deal of time—I am chairman, appointed by Governor Dole and approved by the legislature—I suggested to the governor the other day that inasmuch as the work was so extensive and covered so many books and accounts that I would recommend, if I may be permitted, that an examination of all the registers and individual claims, and the methods of arriving at the value of and the checking of the goods, that a day should be set for your honorable body to oversee that work. It took a year to cover the ground, and therefore the books and papers are all in order, and they would have been put away but for the commission coming, and I thought it advisable to leave them out, and everything is alphabetically arranged. There are 6,700 odd claimants. Any kind of claim, any nationality

that the commission might want to see, can be got at at a moment's notice. We did our work in the executive building, which they assigned to us—the throne room. These books can either be brought down here or the commission can come to this room, put at their disposal on that day.

Senator MITCHELL. That is simply a record of your proceedings as a commission?

Mr. MACFARLANE. Yes, Senator Mitchell.

Senator MITCHELL. It would be a book or books containing the entry, showing the name of the claimant, the amount claimed by him or her, as the case may be, and the action of the commission?

Mr. MACFARLANE. Yes; and a note of the goods destroyed.

Senator MITCHELL. At the same time it would be utterly impossible for us to take up the facts in our limited time or attempt to take up these respective claims and examine them; it would be out of the question. How many are there?

Mr. MACFARLANE. Six thousand seven hundred.

Senator BURTON. Let me ask a question or two. Have any of the claims been bought by speculators?

Mr. MACFARLANE. That I could not say.

Senator BURTON. Can you furnish us an answer to that?

Mr. MACFARLANE. My work there was on the commission. I am entirely ignorant of what has gone on after the certificates of award were issued. I don't know. I don't think that I can recall but one case.

Senator BURTON. I don't mean that would invalidate the claim.

Mr. MACFARLANE. I don't think I can recall but one case where the claim was bought, and that was the case of one of the commissioners who awarded his claim.

Senator BURTON. At the time of these claims being presented, was it understood that the General Government would probably pay them?

Mr. MACFARLANE. Yes, sir.

Senator MITCHELL. You have suggested that inasmuch as the claims run into the thousands, that it is utterly impossible for us to undertake the work of looking into the claims.

Senator BURTON. I have this suggestion to make to you and to Senator Foster: Why not secure some competent accountant to represent us in the matter?

Mr. IRWIN. In connection with the fire claims, the work was finished a month or so ago, and the government issued a certificate of award to each person. They were also going to issue treasury warrants. The various banks here met and we decided that that would be a very bad thing to do, from the fact that the treasurer could not meet the warrants and it would permit speculators to buy up, and if Congress heard that this money would go to a lot of speculators it was doubtful whether they would be willing to appropriate the money. The government, acting upon our advice, have refused to issue treasury warrants.

Senator FOSTER. Are they transferable? Would they be transferable?

Mr. IRWIN. I could not tell you.

Senator BURTON. The award is to an individual by name, but not to his assigns?

Mr. IRWIN. No. At the request and advice of the bankers the government decided not to issue the warrants.

Senator FOSTER. As a matter of fact, have any of these claims been disposed of by the owners?

Mr. MACFARLANE. One or two, before the certificate of award was given.

In the case of one of the commissioners, Mr. Baldwin gave him so much money for his claim, irrespective of what would be awarded, to enable him to accept the commission. My suggestion was not to go over all the claims. My idea was this: For the Hawaiian claims, for the Japanese claims, for the American claims, Europeans, look at one of each and see the manner in which we arrived at values and how they were checked and how they were entered on a register, the manner in which the registers were prepared, and finally the certificate of award.

Senator MITCHELL. Why could not that be done by communication from the board, setting forth the whole thing specifically. In other words, won't we get as much information and better information in regard to the mode of procedure than by looking at the books themselves?

Mr. IRWIN. The fire claims have already prepared a report, which will appear in the governor's report to the Interior Department at Washington. That covers everything. We will furnish you with a copy of that.

Mr. W. O. SMITH. I think that the commission have done this very laborious work would like to have the system and methods examined.

Senator MITCHELL. We will take the matter under consideration and perhaps fix a day or an hour.

Mr. HUMPHREYS. Mr. Chairman, before the commission adjourns I desire to state that I made some comment the other day before the commission on testimony which had been given by the secretary of the Territory. There was some misapprehension upon my part as to the time when I would be called before the commission to make a statement. The data which I have presented to the committee were necessarily incomplete. Since that time other sources of information have been open to me, and I have availed myself of such sources of information. In justice to myself and in justice to the interests of this community that have been represented before the commission, I desire to make a supplementary statement.

Senator MITCHELL. The commission will meet this afternoon, and we will hear you then.

Mr. HUMPHREYS. My testimony is along the same lines and contradictory to the statements which have been made here this morning.

Senator MITCHELL. We are desirous of getting facts.

Mr. HUMPHREYS. I will be in a position to furnish facts.

Senator MITCHELL. We are very much obliged to you, gentlemen.

D. G. CAMARINOS sworn.

Senator MITCHELL. State your name, age, occupation, and residence.

Mr. CAMARINOS. D. G. Camarinos, 48, commission merchant, Honolulu.

Senator MITCHELL. Where were you born?

Mr. CAMARINOS. At Sparta, Greece.

Senator MITCHELL. State whom you represent and for whom you speak before the committee.

Mr. CAMARINOS. I have been a business man twenty-five years on the Pacific coast, and I want to tell you a few facts what is going on on the Pacific coast and Honolulu.

Senator MITCHELL. On what subject?

Mr. CAMARINOS. On business—prices.

Senator MITCHELL. On what subject did you desire to speak before the committee?

Mr. CAMARINOS. For the general business—for the labor party, for all parties.

Senator MITCHELL. How long, probably, would it take you?

Mr. CAMARINOS. Five minutes—ten minutes.

Senator MITCHELL. State briefly and fully what you desire the committee to do. Have you a communication in writing?

Mr. CAMARINOS. Yes.

Senator MITCHELL. Do you desire to file that with the committee?

Mr. CAMARINOS. Yes. Gentlemen, I am a Greek by birth, and since you can not understand the Greek language I must speak to you in the English language as best I can. Thirty years ago I came to America a young man. I have visited your great Atlantic coast cities, but finding the climate too cold I went west to San Francisco. When I reached California and saw the olive and fruit trees I said, "This is my home; I will go no farther."

A few days after I landed in San Francisco a number of professors from the University of California heard of me and were anxious to see a live Greek. And they came to me and asked me to spend Sunday with them. And I did. They asked me a few questions about how the old Greeks would look upon American ways to-day. They asked me what the old Greeks would say to Madame Patti getting \$5,000 for an hour's singing to the public, and John L. Sullivan getting thousands of dollars in one night for a prize fight. I answered them that in the old days honor was greater than money, and men and women sang and fought for glory, not for dollars and cents. In the Olympic games of ancient Greece the laurel wreath of victory was a thousand times dearer than thought of wealth.

Then the professors told me that they were working for so many dollars a month and were liable to lose their positions at any time, and asked me what the old Greeks would say to that. I answered them that the old Greeks held the teachers in high esteem and that I thought the American professors were treated very much like cabbages at a market.

I had a few dollars left which my father had given me and I started a fruit business in San Francisco. Before long I was in the wholesale business. By application and attention to business I found myself before long the leader of the fruit business in San Francisco and without a rival in the vast business interests I had created. Before coming to Honolulu I had a branch house here and imported largely from Honolulu, Lower California, and Mexico. Among the agriculturists of the Pacific coast and Hawaii the name of Camarinos was known to everybody.

For twenty years I have done business with the islands, sending California goods down and taking Hawaiian bananas and pineapples back. I was the first man to introduce the refrigerator aboard ships in the Pacific. I have sent thousands of pineapple plants to Hawaii of a quality far better than those already growing here.

Now I come to tell you a few interesting facts concerning the islands. These facts are the result of twenty years' experience. People discovered that there was money to be made in sugar. To make money in sugar they found out that Asiatic labor was good enough for them,

and after they imported them by thousands under contract for a certain time they turned them loose like cattle when their terms had expired to enter the ranks of tradesmen to compete with white business men, to drive the white men from the country by their cheap methods and slavish principles. Look at the restaurants in Honolulu. It is funny to see such signs up as "The Dewey" or "Uncle Sam's" restaurant, or other restaurants run under American patriotic names. You enter the restaurants and find that Chinese are running them. It is the same in most of the restaurants, stores, offices, and other establishments of the city. Where you do not find Oriental managers you find Asiatic employees. The Asiatics are our carpenters, our drivers, our salesmen, our cooks, our servants, our gardeners, our grocers, our tailors, our farmers. God knows what they will be next. They may be our masters yet.

The American flag flies over Hawaii, but where are the Americans? The Chinese are our agriculturists. They raise our vegetables. They work our sugar plantations. They force the white man out of business. The Chinese and the Japanese are our clerks and our tradesmen. Whose fault is it? Is it not the fault of the blind element which is so taken up with sugar interests that they forget the good of the islands? To quote a popular Hawaiian phrase, the Orientals have Hawaii by the Okole. They are the bees; we are the honey-suckle. They sap the strength of the island and the white man is not in it.

A year ago I established some tropical gardens, having a beer license, and I soon acquired a custom among the workmen amounting to several hundred American citizens a day. There was never a single case of drunkenness or rowdiness from the time of the granting of the license to the expiration of the same. I gave away a substantial lunch with every 10-cent glass of beer. Now my place is closed up and the workmen are the sufferers.

The Asiatics control the business of the town. They run the fish markets, the fruit markets, butcher shops, tailor shops, poi shops, carpenters shops, groceries, and restaurants. They live on almost nothing and work for little. White mechanics and their families are leaving Honolulu by every steamer, and the Asiatics are responsible for this sad discouraging state of affairs. Look at the city directory and you will be convinced of the majority of the Asiatics over the white and native people. Are we to have the American flag floating over a hoard of cheap Oriental slaves that discourage American workmen? As long as the Asiatics are running the country this can not be a white man's land. White mechanics are leaving the country on account of cheap Chinese and Japanese labor, and now you can talk about your hard times!

In traveling around the islands I met several drummers from the mainland, and their business was so extensive with the Japanese and Chinese that they were under the impression that there were no white people here at all.

The Portuguese who came here under contract to work on the plantations are all leaving for California on every steamer. After their terms on the plantations had expired they drifted to Honolulu and invested in a home with all their savings, then set about to raise fruit, grapes, figs, etc., to supply the transport trade; but they soon found out that they could not compete with the Asiatics, and were forced out of business.

Senator MITCHELL. What remedy would you suggest?

Mr. CAMARINOS. I think, take a white man. I propose to take white men to America to make their living.

Senator MITCHELL. Can you get white labor here to meet the necessary demand here?

Mr. CAMARINOS. Well, we can get for money other industries. I am not very much on the sugar. I like to see the sugar, but they had to have a fence to keep Asiatics inside.

Senator MITCHELL. What did you say about Oriental labor?

Mr. CAMARINOS. They are all right on the plantations and have a high fence.

Senator BURTON. You believe that Chinese labor should be permitted to come here restricted to plantation work, do you?

Mr. CAMARINOS. The sugar man says we can't do without the Chinaman. We have several thousands. They come here years ago, and the American, they live together here and try to find work, and now they can not find it.

Senator BURTON. You are a Greek, are you not?

Mr. CAMARINOS. Yes, sir.

Senator BURTON. How many of your nationality are there here?

Mr. CAMARINOS. One or two dozen.

Senator BURTON. Not more?

Mr. CAMARINOS. No. We had about fifty working for the plantations. They shipped back to America.

Senator BURTON. Are there any more of your countrymen who desire to come here?

Mr. CAMARINOS. No.

Senator BURTON. Just a dozen here?

Mr. CAMARINOS. Just a dozen.

Senator BURTON. Are your countrymen prevented from securing work?

Mr. CAMARINOS. Because they can not work and live like the Chinaman. No white man can, to my knowledge.

Senator BURTON. What would you like Congress to do; anything?

Mr. CAMARINOS. If you will, let him come to the sugar cane, the Asiatics, but keep them there.

Senator BURTON. I am not talking about the sugar men. What do you, from your standpoint, want? We are here to get information from the laboring man as well as from the planter. What do you recommend Congress to do?

Mr. CAMARINOS. Lots of white men make a living—thousands of people—but the Chinaman comes with his bananas, chickens—

Senator BURTON. At present the laws prevent the Chinaman from coming here.

Mr. CAMARINOS. That is a good thing.

Senator BURTON. Do you recommend any change in the law?

Mr. CAMARINOS. The planters can do as they please.

Senator BURTON. Do you recommend any change on the subject of Chinese immigration?

Mr. CAMARINOS. I like to see no Chinese and no Japanese in this America.

Senator BURTON. American country for Americans and Greeks.

AFTERNOON SESSION.

FRIDAY, *September 12, 1902.*

Mr. HUMPHREYS. Mr. Chairman, gentlemen of the committee: I desire to rise to a question of privilege in the first instance, Mr. Chairman, not for the purpose of having this committee pass upon it, but because I conceive it to be relevant to what I wish to say later on, a question of privilege of the highest character.

Senator MITCHELL. Let me ask you. You have appeared before the committee in two capacities, as amicus curiæ, representing the citizens of this part of the American country, advising us and giving us what you conceive to be facts and making certain recommendations. You have also appeared as the attorney for the late Queen in regard to the crown lands. In what capacity do you now appear?

Mr. HUMPHREYS. In the capacity in which I first appeared, availing myself of the general invitation which was extended to the citizens of this Territory, and also upon the invitation of one of the members of your committee.

The question of privilege to which I referred I will now present. It has been aptly said that jurisdiction is the power to hear and determine.

Senator MITCHELL. That is right.

Mr. HUMPHREYS. Determination is absolutely impossible unless we can hear. The power of this committee delegated by the Senate of the United States, according to the resolution, is to hear and report and not to determine, and necessarily it must hear before it can report, and I take it that the committee is desirous to hear the untrammelled, the unbiased, the uninterested, the unclouded, and the unprejudiced opinion of the citizens of this country who have had governmental conditions under observation here.

Senator MITCHELL. That is right.

Mr. HUMPHREYS. Availing myself of the invitation which was extended to the citizens of this Territory and of a particular invitation extended by a member of it, I had the honor to appear before the committee September 9, 1902, and made certain statements in regard to labor conditions and conditions generally in this Territory. Within forty-eight hours after I had made that statement the chamber of commerce, which body presented a resolution and memorial to the committee this morning and proposed to denounce me for the statements I had made there. I do not believe that the chamber of commerce or any member passed the resolution denouncing me. I think the question was circulated in the newspapers for the purpose of showing the dominant element would be hostile to any testimony to this committee which would tend to oppose the American contract labor in the Hawaiian Islands. Quoting from the Pacific Commercial Advertiser:

Mr. D. P. R. Isenburg called attention to the examination of Judge Humphreys by the senate commission, as reported in the morning paper. The committee to appear before the commission ought to pay particular attention to that gentleman's evidence. Judge Humphreys wanted to Americanize this country by sacrificing its chief industry. The speaker thought that they were Americanizing the community as well as they knew how.

Mr. Shaefer hoped the remarks just heard would go on record and be accepted as a direction to the committee.

Mr. Carter suggested the passage of a resolution denouncing the sentiments of Mr. Humphreys.

President Irwin thought it not advisable to place too much importance on the utterances of one individual.

This is consistent with the course pursued here by the dominant classes and the government of the Territory of Hawaii for several years.

I may refer briefly to the membership of the Chamber of Commerce if I am permitted so to do. I deem it important that this committee should know the character and the nationality, as was indicated by the questions of the chairman propounded to the witness who has just vacated his seat. The Chamber of Commerce, which body presented a memorial to this committee this morning, has for its president Mr. William G. Irwin. Mr. William G. Irwin is a gentleman largely identified with the growth and development of the Hawaiian Islands. He is a splendid type of the British gentleman and not an American citizen. From my understanding, possibly imperfect—from my understanding—a demand on the part of a subject of Great Britain to influence the legislation of an American Territory is, to say the least, bad taste.

Senator MITCHELL. Do you mean Mr. Irwin is not in fact an American citizen, or not an American citizen in sympathy?

Mr. HUMPHREYS. I mean, sir, to say in fact. I shall not state that any gentleman is not an American citizen except when I mean in fact that he is not so. Mr. Irwin was summoned to serve on a grand jury or a petit jury in the circuit court of the first circuit, and he was excused upon examination by the express statement that he was not a citizen, and this within the past sixty days.

I desire to call your attention to the Senate reports, in which is the following telegram:

SAN FRANCISCO, April 11, 1902.

Hon. W. P. FRYE,

President of the United States Senate, Washington, D. C.:

Exclusion act as proposed unnecessarily drastic. Will cripple commerce, destroy our trade China. Believe reenactment Geary Act would cover all requirements and preserve and increase present trade relations China.

The telegram was signed by a number of gentlemen identified with commerce generally in San Francisco, and others, among them William G. Irwin, of the city of Honolulu.

The Senator, in presenting the telegram in question, observed that it was signed by the leading business men there.

The point is that not only is Mr. Irwin not a citizen, but also a great many of the people who appeared before you, referred to in the Chamber of Commerce.

Mr. F. M. Swanzey, who made an address on behalf of the Planters' Association, is a British subject, and is to-day, Mr. Chairman and gentlemen of the committee, the British vice-consul in Honolulu.

I do not say that that fact was concealed from the chairman and members of the committee, but it was not disclosed.

In the committee room I observed many of those present: Mr. Irwin, Mr. Swanzey, Mr. Shaefer, an alien; Mr. H. A. Isenburg, whom I believe to be an alien identified with the firm of H. Hackfeld & Co.; Mr. Thomas Catton, a subject of Great Britain, and Mr. James Gordon Spencer, secretary of the chamber of commerce, which institution supports the present governmental policy in Hawaii in addition to seeking to bring further Asiatics and Orientals into the country.

I desire to call attention to data found on page 24 of the report of the governor of the Territory of Hawaii to the Secretary of the Interior, under date of 1901, as to lands in Hawaii.

It appears from this report that Mr. James Gordon Spencer, secre-

tary of the chamber of commerce, which institution is identified with the present governmental policy and scheme in Hawaii to the extent of occupying in Nuuanu Valley a homestead which belongs to the government and for which he pays \$50 annually; and I desire to state in passing that the grounds occupied by Mr. Spencer are spacious, attractive, and magnificent, that there is a comfortable house located on it; that property there will rent for \$40 or \$50 a month. There is not a single Japanese rooming house in Honolulu where a single room will rent for less than \$50 per annum. Mr. Spencer has furnished for him a magnificent homestead at a rental amounting to a little less than \$4.50 a month.

Senator MITCHELL. Now, Judge, aside from nationality of these gentlemen and whether they are citizens and their present status here, what have you to say in recommendations—what have you to say in regard to the facts that they have presented?

Mr. HUMPHREYS. I desire to differ from them as to the facts. I deemed it pertinent to show the nationality of these men, to show that they were not interested in building up American civilization. They are here to make fortunes, which, in view of history, in view of the way men act ordinarily, they will return to their own countries to spend.

Mr. FOSTER. How long has Mr. Irwin lived in this town?

Mr. HUMPHREYS. I don't think he was born here. He has been here since very early life.

Senator MITCHELL. How long has Mr. Swanzey been here?

Mr. HUMPHREYS. Very many years.

Senator MITCHELL. You are certain he is not an American citizen?

Mr. HUMPHREYS. Certainly.

Mr. Isenburg, who proposed a resolution denouncing me, wished to have something to say with reference to public lands in Hawaii. On the 12th day of April of the year current, as first judge of the circuit court of the first circuit, I handed down a decision which involved the value as an investment for trustee's bonds of the McBryde plantation, in which, through the members of his family, he is largely interested in. On page 29 of the decision, a lengthy one, referring to the conditions of the plantation and reaching the conclusion that the bonds were worthless as a trust investment, is the following:

Situated in the very heart of the plantation, between its Eleele and Koloa properties, is a lease of government land known as Kalaheo, on which is a valuable stream. This lease contains 4,045 acres and will expire on February, 1909, a little less than seven years. According to the testimony of Mr. Miller, about 2,000 acres of this moribund lease is in cane, and, as "it will be three years any way, possibly longer," before the company pays a dividend, it will be readily seen that as the basis of a loan for trust funds it is, aside from the inherent objections to leases, decidedly illusory; and, in view of the demand, the clamor of American citizens in this Territory for homesteads and the declaration of the President, which has been hailed as a benediction, that "we do not wish a region of large estates by cheap labor; we wish a healthy American community of men who themselves till the farms they own," it may be treated as a foregone conclusion that the lease of Kalaheo will not be renewed, at least not for a rental of \$330 a year, which the property now yields the government.

That decision was rendered on April 12, 1902. Thereafter the McBryde plantation, the name of the plantation in question, thereafter this company applied for a lease of water situated upon this land. The matter was referred by the executive council to the governor and Mr. Isenburg. In other words, the governor of this Territory and Mr. Isenburg, who is largely interested, would determine

whether or not the McBryde plantation should have it, at least it was so announced in the papers.

This decision may be filed as there is some matter relative to plantations in this country since annexation in it. Let it constitute a part of the record.

Senator MITCHELL. Let it be filed.

Mr. HUMPHREYS. The Merchants' Association is almost identical with the Chamber of Commerce, as I understand it. The Chamber of Commerce is composed of merchants of this city. But one member of a firm is eligible for membership. So the Merchants' Association for the purpose of creating artificial sentiment, artificial sentiment at Washington, was formed. There will be sent a resolution from the Chamber of Commerce and one from the Merchants' Association bolstering up anybody who is laboring there in the interests of sugar. Here is an instance. A firm is composed of Brown & Smith. Brown is a member of the Chamber of Commerce and Smith a member of the Merchants' Association, a sort of a jointed snake, a snake that divides itself and resists all attack by division.

Now, in regard to Chinese and Japanese in this country and their effect upon our industries, I desire to call attention to the biennial report of the president of the board of immigration to the legislature of 1890. I may say that the statistics contained in the report of the governor of the Territory of Hawaii will show that since this report the number of Japanese in this Territory have increased to an amount which would seem off-hand almost incredible. There has been a corresponding increase in the competition with white people who are engaged in those trades and industries.

Macaulay has observed that statistics are hard mercenaries and can be used by either side.

Senator MITCHELL. Statistics are said to be great liars, you know.

Mr. HUMPHREYS. I do; yes, sir. I think when the statistics are prepared by the liar himself they may be used against him.

Senator MITCHELL. That is right. Present them, then.

Mr. HUMPHREYS. I wish to quote from this report.

Senator MITCHELL. Do you think it would be a wise policy to modify the exclusion laws in a way, so far as this Territory is concerned, or do you object?

Mr. HUMPHREYS. I object to that.

Adjournment until 9 o'clock to-morrow morning.

SATURDAY, *September 13, 1902.*

Senator MITCHELL. Judge Humphreys, proceed.

Mr. HUMPHREYS. I was proceeding at the hour of adjournment yesterday to read from the biennial report of the president of the board of immigration to the legislature of 1890. I proceed to quote:

EXPENSES OF FEMALE IMMIGRANTS.

The passages of the female immigrants have heretofore in all cases been paid by the Government, no repayment being made therefor.

The demand for immigrant laborers, caused by the great expansion of the industries requiring unskilled labor, was so great during the period that in January, 1889, it was found that after the payment of the cost of the Portuguese, per Thomas Bell, and of three shipments of Japanese the appropriation of \$30,000 for

immigration purposes would not warrant the payment of any more toward the women's passages, while the demand for laborers was greater than ever. An understanding was accordingly arrived at with the employers that they should pay the amount required for the passages of the women thereafter to arrive, the board agreeing to recommend the legislature to appropriate such sum to reimburse them for the amount so paid.

Under this arrangement four shipments have arrived, the amount paid for passages of women arriving thereby being \$21,780.

In accordance with the agreement above stated, I hereby recommend that such sum be appropriated to pay the cost of such passages.

PORTUGUESE IMMIGRATION.

The high cost of the former Portuguese immigration, as was stated in the last report, prevented a continuation thereof upon the same basis.

It was stated in the last biennial report that "the views of the board are that while the board of immigration should supply every facility both at home and aboard for the introduction of laborers, the expenses should be borne by the persons desiring them and not by the Government." The exception to this is in the payment of the passages of women accompanying such laborers when public policy requires that the preponderance of males over females of such nationality should be neutralized.

This has continued to be the policy of the Government and the board of immigration during the past two years.

In the fall of 1888 Messrs. H. Hackfeld & Co. and A. Marques each applied to the board to be allowed to recruit Portuguese laborers.

The reply was made to both that the Government could assume no financial responsibility in the matter, but that if responsible persons would file with the board orders for laborers to be obtained by the applicant, with a guaranty that the board should be subject to no expense in connection with such immigration. the use of the board's name, its forms, and officials would be allowed, and the labor contracts made in the name of and guaranteed to the laborers by the board.

Mr. Marques thereupon made proposals to the Planters' Labor and Supply Company to secure orders for laborers, but failed to come to any agreement with them.

Messrs. H. Hackfeld & Co. having filed the required orders, authority to recruit laborers from the western islands or the north of Portugal was issued to Mr. Muller, who visited Europe for that purpose. A commission was afterwards issued authorizing Mr. Paul Isenburg, another member of the firm, to carry on the same business, which is still pending at the close of the period.

The greatest obstacle in the way of getting laborers from Madeira and the Azores has been the advantages offered by Brazil, free passages being given the immigrant and his family, free land for homesteads is furnished, and no labor contract required.

The passage to Brazil is short, the expense small, and public land is unlimited. All these conditions are reversed in our case, and although the wages paid laborers here are much higher than in Brazil, and the immigrants to Hawaii are guaranteed work by the Government for three years at fair wages, the Brazilian competition has seriously interfered with immigration to this country. Messrs. Hackfeld & Co. are, however, still hopeful of being able to renew the immigration.

CHINESE IMMIGRATION.

The question of who should not be brought to this country is as important a one as is that of who should be brought here.

Although a number of the planters are in favor of meeting the labor question by bringing more Chinamen into the country, I do not hesitate to say that under present circumstances and laws the benefit to the planters would be of the most temporary kind, if any at all, and would eventually form a most suicidal policy for the country.

At the risk, perhaps, of being considered tedious, reference is hereby made to the reply of the cabinet to a committee of citizens concerning this subject in the fall of 1889. As that reply consists chiefly in a statement of facts bearing on this subject it is printed herewith.

Reply of the cabinet to the petition of the citizens of Honolulu regarding Chinese restriction.

Messrs. ROBERT LISHMAN, M. A. GONSALVES, T. R. LUCAS, and J. K. NAONE.

GENTLEMEN: As a committee of a meeting of Hawaiian citizens and residents held at Honolulu on the 23d day of September last, you have petitioned the ministry to secure the calling together of the legislature for the purpose of submitting an amendment to the constitution, which, if finally adopted, will permit legislation whereby, if the exigencies of the labor market require it, Chinese may be allowed to enter the Kingdom as plantation laborers, and whereby such Chinese so admitted, and Chinese now engaged in the country as common laborers, may be restricted to such employment.

The ministry are of the opinion that the subject-matter of your petition involved an issue second to none in importance to the future of this Kingdom.

Both before and since receiving your petition this matter has received the earnest consideration of the cabinet.

The request embodied in your petition naturally divides itself into two parts, and raises two questions, viz:

First. What measure of restriction shall be placed upon Chinese coming into the country and what control shall be exercised over these now here and hereafter to come?

Second. When shall action be taken?

Considering the second point first, the conditions under which the question arises are as follows:

The existing legislature was elected in September, 1887. In a few meetings of one constituency, Honolulu, the question was discussed, but the main issue before the people at that time was the sustaining of the new constitution and the movement which culminated therein. On that issue every member of the present legislature, with one exception, was returned.

At the special session of 1887 the Chinese question was brought up and a restriction act was passed which was amended in 1888. Early in the regular session of 1888 an amendment to the constitution practically covering the ground stated in your petition was introduced and referred to a special committee, who went into the question exhaustively and reported an amended bill, which was debated and re-referred to a new committee, who reported with further amendments. After the bill had thus been four times before the house it was indefinitely postponed by a vote of 25 to 17.

The conditions, then, under which we are asked to call the legislature together for this matter are:

First. The legislature was not elected on this issue, and, with a few exceptions the members do not consider themselves pledged or bound to support legislation of this nature.

Second. The same principle and the same subject-matter, differing only in detail, has been thoroughly discussed many times by and before the same men who would now have to consider it, and they decided against it by a decisive vote.

Under these conditions the cabinet were of opinion that the chances of a reversal of the former verdict of the legislature were but slight, but after mature consideration they decided that if there was any reasonable prospect that action would be taken whereby the question could be submitted to the people for approval or disapproval at the coming election, it was their duty to afford that opportunity. If, on the contrary, there was no reasonable prospect of such action being taken, the cabinet were of the opinion that they would not be justified in requesting that the legislature be called together.

Under these circumstances measures were taken to ascertain the sentiments of various members of the house. The result was found to be that no adequate legislation covering the ground can be secured from the existing legislature. The time necessarily consumed in ascertaining this fact and in compiling the statistics hereinafter contained is the cause of the delay in answering you. For the reasons above stated the cabinet are of the opinion that it would be useless to again call the present legislature together to consider this subject.

In justice to the legislature it is but fair to state that the reasons given by a number of them were not directed against the principle of restriction and regulation.

This answer might stop here, as it already covers all that you asked to now have done; but we consider that the importance of this question requires a decisive statement of ministerial policy.

First. The excessive proportion of Chinese in the Kingdom and their rapid encroachment upon the various businesses and employments of the country require

adequate measures to prevent the speedy extinction in these islands of Western civilization by that of the East and the substitution of a Chinese for the Hawaiian and other foreign population.

Second. The perpetuation of Anglo-Saxon civilization, introduced into these islands and adopted by the Hawaiian people early in the present century, is essential to the continuance of a free government and of the political independence of this Kingdom; and such civilization can be perpetuated by retaining a population who have been educated therein and who comprehend the workings and benefits of popular representative government.

Third. We believe that self-preservation by nations, as well as by individuals, is a principle universally recognized.

In order to understandingly consider the situation in this country it is necessary to know what other nations and other peoples are doing concerning this subject, and how other countries similarly situated are affected by this question.

First. In the United States the question has received the greatest consideration, and for a number of years Chinese exclusion has been the absorbing, ruling question on the Pacific coast. In earlier years the agitation was accredited to "the Irish element" and the "hoodlum;" but the unanimity of all classes, professions, and nationalities, and the entire newspaper press has long since taken it out of that category, and we last year saw the exclusion policy advocated by the Pacific coast adopted by the United States Government in all its branches—legislative, executive, and judicial—and put into operation by vigorous legislation, even against the terms of a solemn treaty existing between China and the United States.

At the time of the last census, 1880, the total population of the United States was 50,536,222; total Chinese population, 105,613; total population of California, 864,964; total Chinese population of California, 75,132.

At that date the Chinese were 0.002 per cent of the United States population and 8.6 per cent of the population of California.

The estimated population of California in 1887 was 1,400,000; estimated Chinese population of California, 102,000, or 7.3 per cent.

The extraordinary and unprecedented legislation adopted by the United States was, therefore, called into existence to protect its citizens against a foreign population numbering only 0.002 per cent of the total population, and in California, where the Chinese are most concentrated, they were only 8.6 per cent in 1880 and estimated at 7.3 per cent in 1887.

Second. Canada. In July, 1884, the Canadian government appointed a royal commission "to make inquiry into and concerning all the facts and matters connected with the whole subject of Chinese immigration, its trade relations, as well as the social and moral objections taken to the influx of the Chinese into Canada." The circumstances out of which the commission arose were stated to be that "British Columbia has repeatedly, by her legislature, as well as by her representatives in parliament, solicited the executive and parliament of Canada to enact a law prohibiting the incoming of the Chinese to British Columbia."

The report of the commission is most exhaustive, occupying 653 pages, covering an investigation of the subject from all points of view in most of the countries where the question has arisen, and giving the evidence taken in full. The chairman, in summing up, uses the following strong language:

"There are four courses open before Chinese immigration, where unrestrained:

"1. It may continue to put in male laborers, capable of living under conditions which would make life wretched for the white man, and these as builders of railways, and fruit-raisers, and the founders of manufactories, may do much good, while, however, doing great harm by barring out white workmen and keeping out white immigrants devoted to unskilled or partly skilled labor. * * *

"2. Freed by travel from the thralldom of the worship of ancestors, or driven by necessity, Chinese immigrants may bring their women and settle down in the country. In that case, with their capacity for living on little, they would increase in numbers at a rate which would soon menace the numerical ascendancy of the whites. Meanwhile, that state of things already described, in which a middle class could not exist, would be brought about, and without having actual slavery you would have all its evils—a small aristocracy, immensely rich, destined to die away on its own effeminacy, but not until after its depraved pride had done all in its power against freedom and free institutions. * * *

"3. Or the Chinaman having effected lodgment might be given a vote. 'Most improbable.' True, but not one whit more improbable than it was in 1859 that the negro should be allowed to vote. And what would be the end? The end would be, after riot and bloodshed, a yellow belt on the shores of the Pacific.

"All this will seem to be looking far ahead. But we ask that the language of persons who have lived in China should be remembered. Those who know the Chinese know how much there is in them. In fact, outside of European art, of war, and the higher mechanical employments they can beat the world. * * * And the Anglo-Saxon may find this despised Celestial move only too quick in the coming years.

"It was therefore a wise thing of the Congress of the United States to take action respecting Chinese immigration."

The commission, after reviewing the evidence, say:

"One thing is worth noticing about this Australian evidence, namely, the exact similarity and tone to those taken by men in San Francisco and British Columbia to-day. The Chinaman seems to be the same everywhere, and the advocates of his advent or his restriction or his exclusion use the same words, whether they live in Melbourne or London or San Francisco."

The commission quote a number of the Queensland legislature, speaking with reference to the material development of Singapore by Chinese immigrants, as follows:

"I admit that by introducing within the next ten years as many Chinamen into Queensland, you might develop the resources of Australia to an extent to which they would not otherwise attain in fifty years; but is it desirable that we should accelerate the progress of Australia at the expense of the future nationality of Australia?"

"Is it desirable in order that a few men may make fortunes that the whole type and character of the population of that great continent shall be fixed and molded forever?"

The commission recommended restriction, but not exclusion, on the ground that the number then in the country did not require it. In accordance with the recommendation, a restriction act was passed and is now in force. That its stringency will be increased sooner or later is inevitable.

Third. The Australian colonies have been agitated throughout their length and breadth by the same question.

The population of the colonies at the end of 1887 was as follows:

Colony.	Total January, 1888.	Chinese July, 1888.	Per cent Chinese.
New South Wales.....	1,042,919	16,826	1.6
Victoria.....	1,086,110	12,664	1.2
New Zealand.....	645,330	4,688	.7
Queensland.....	304,940	8,260	2.4
South Australia.....	312,421	6,900	2.2
Tasmania.....	142,478	1,000	.7
Western Australia.....	42,468	400	.9
	3,588,686	51,380	-----

Chinese population in 1881, 48,706; increase in seven years, 7,624. Notwithstanding the insignificant percentage of Chinese population, the colonies have without exception passed laws restricting Chinese immigration. These proving more or less ineffective, a conference of delegates from all the colonies was held in Sydney in 1888 and a bill drafted for submission to the parliaments of the different colonies. In pursuance thereof the parliament of New South Wales passed a bill which became a law on the 11th of July, 1888.

"By this measure vessels are prohibited from carrying to the colony more than one Chinese passenger to every 300 tons; Chinese landing are to pay a poll tax of £500 (\$2,500), and those landing are prohibited from engaging in mining. The act will probably operate to the entire exclusion of Chinese in the near future." (See *Wealth and Progress of New South Wales*, pp. 313-314, 1887-88.)

The British Government expressed disapprobation of the act, and a veto was suggested, whereupon Sir Henry Parkes, premier of New South Wales, telegraphed the following defiant protest to Lord Salisbury:

"With reference to Chinese immigration and the inquiry made by the Marquis of Salisbury, his excellency's advisers beg briefly to explain that the law of this colony for some years past has imposed the restriction of a poll tax of £10 on each immigrant and the limitation of one immigrant to every 100 tons of ship burden, but owing to recent occurrences severer measures are now demanded throughout all the colonies. This state of things has given rise to new reflections in dealing

with a difficulty which threatens to become a calamity. As these colonies form an important part of the Empire, it is submitted that our cause of contention is of sufficient national concern to be taken up by the Empire. If we have no voice in making treaties, it seems only just that our interests should be considered and protected by those who exercise that power. We learn that the Government of the United States have entered into a treaty with the Government of China by which Chinese immigration to America is no longer permitted. We fail to see why Australia may not similarly be protected. We desire to impress upon Her Majesty's imperial advisers the more prominent phases of the Chinese question as it specially and almost exclusively affects the Australian section of the British people.

- "1. The Australian ports are within easy sail of the ports of China.
- "2. The climate, as well as certain branches of trade and industry in Australia, such as the cultivation of the soil for domestic purposes and tin and gold mining, are peculiarly attractive to the Chinese.
- "3. The working classes of British people in all affinities of race are directly opposed to their Chinese competitors.
- "4. There can be no sympathy and in future it is to be apprehended there will be no peace between the races.
- "5. The enormous number of the Chinese population intensified every consideration of this class of emigration of any other nation.
- "6. The most prevailing determination in all the Australian communities is to preserve the British type in the population.
- "7. There can be no interchange of ideas of religion or citizenship, nor can there be intermarriage or social communion between British and Chinese.

"It is respectfully submitted that an examination of these principal phases of the question can only lead to one conclusion, namely, that the Chinese must be restricted from emigrating to any part of Australia. While the question scarcely touches the people of the United Kingdom, it vitally concerns these great colonies, whose importance in political and commercial relations entitled them to be perfected by the diplomatic influence and powers of treaty which belong to the Empire. With renewed expression of our loyal attachment to Her Majesty, we urge that immediate steps be taken to open such negotiations with the Emperor of China as will result in permanent security to the Australian colonies from the disturbance of Chinese immigration in any form. The matter is too grave and urgent to admit of long delay. However desirable it may be to avoid the irritation and conflict of interests which may arise from local legislation of a drastic character, if protection can not be afforded as now sought, the Australian Parliaments must act from the force of public opinion in devising measures to defend the colonies from consequences which they can not relax in their efforts to avert."

This plain statement that unless Great Britain allowed the legislation to stand the colonists would take matters into their own hands, accomplished the desired end, and the act now stands the law of New South Wales. That such a determined stand should have been taken and such strong language used is proof of the strength and earnestness of the feeling which brought it forth.

IV. THE STRAITS SETTLEMENTS.

The Straits Settlements are the settlements belonging to England along the Straits of Malacca, south of Asia. Chief among them is Singapore, situate on an island of the same name, 27 miles long by 14 wide. All of the authorities speak of the climate of the Settlements as being singularly healthy both for Europeans and natives.

Singapore was founded by an English expedition sent from India in 1819, with a population of 200.

In 1823 the population was	10,683
In 1828 the population was	17,664
In 1833 the population was	20,978

In 1842 the Encyclopedia Britannica, edition of 1842, says:

"The principal merchants are English. * * * Some of the respectable merchants are Chinese, as are also the cultivators and other laborers.

"The Malays are chiefly employed as fishermen, in cutting timber, and in bringing supplies into the town from the surrounding neighborhood, and the boatmen are chiefly natives of the Caromandel coast."

In speaking of the shipping trade it says:

"Sugar is the most valuable part of the cargoes, which is nearly all taken by European merchants. * * * It is also stated that vessels from Canton brought annually about 2,000 Chinese immigrants."

Lippincott's Gazetteer, edition of 1865, states concerning Singapore that in 1836 the population was 80,000, and in 1850 the population was 52,891, besides 1,548 convicts from India and 670 troops. The Chinese comprise 53 per cent of the entire population.

The Statesman's Yearbook, edition of 1889, a standard current authority, states the population of Singapore's census of 1881 as follows:

White (males, 2,207; females, 502)	2,769
Indians	12,058
Malays	22,155
Chinese	86,756
Total	123,748

Whittaker's Almanac, 1889, also a standard authority, states that "in the extent of its shipping Singapore is one of the greatest ports in the world, the number of ships entering in 1887 being 7,075, with a tonnage of 4,812,901. * * * There are many wealthy and intelligent Chinese merchant-shipowners in the colony. * * * The opium and spirit trades are farmed out to the Chinese," bringing the Government in \$1,590,000 for 1889.

The imports for 1887 were valued at	\$142,322,900
Exports	121,841,211
Public revenue	4,500,000
Public expenditures	3,510,545

The foregoing are from statistical works, not compiled for the purpose of giving information particularly on the subject of Chinese.

The Golden Chersonese, by Miss Bird, 1883, being an account of a visit to the Straits Settlements, gives more detail concerning the subject than any other work we have found, and her works are the more weighty, as she constantly speaks in the friendliest terms of the Chinese. On page 114 she says:

"The English, though powerful as the ruling race, are numerically nowhere, and certainly make no impression on the eye. The Chinese, who number 86,000, out of a population of 189,000, are not only numerous enough, but are rich and important enough to give Singapore the air of a Chinese town with a foreign settlement. * * *

"The increase in population in ten years, prior to 1881, was:

European	823
Chinese	32,194

"The European resident population, exclusive of soldiers, is only 1,283, and this in spite of the fact that Singapore is the official center of all the Straits Settlements, the residence of the governor, and all the British officials."

Miss Bird speaks of the "resistless, overpowering, and astonishing Chinese element which is gradually turning Singapore into a Chinese city."

She thus described the steamer from Singapore to the mainland: "The steamer *Rainbow* is one of the many tokens of preponderating Chinese influence in the Straits of Malacca. The tickets are Chinese as well as the ownership and crew. The supercargo who took my ticket was a sleek young Chinaman. The cabin passengers are all Chinamen. The deck was packed with Chinese coolies. I am the only European passenger."

Of the neighboring town of Malacca she says: "I must divulge the singular fact that Malacca is, to most intents and purposes, a Chinese city. * * * The English, except in so far as relates to the administration of government, are nowhere. * * * Of the population of the town the majority are Chinese, and still their crowded junks are rolling down on the northeast monsoon."

"As I remarked before, the coasting trade of the Straits of Malacca is in their hands, and to such an extent have they absorbed the trade of this colony that I am told that there is not a resident British merchant in Malacca. * * * The Chinese own most of the plantations of the country; have obtained the finest site on the hill behind the town for their stately tombs. Every afternoon their carriages roll out into the country conveying them to their substantial bungalows

to smoke and gamble. * * * They have fabulous riches. * * * The upper class of the Chinese merchants live in immense houses within walled gardens. The wives of all are secluded and inhabit the back regions and have no share in the remarkable good time which the men seem to have. * * *

"By the census of 1881 the population of Malacca was 93,579, of which there were Europeans, 32; aborigines of the peninsula, 308.

"The decrease in the number of resident Europeans is 81.9 per cent; in natives of India, 42 per cent, and in other nationalities, 48.9 per cent. On the other hand, the Chinese population has increased by 46 per cent in ten years. * * *

"In Georgetown, one of the Straits Settlements, the Chinese, who number 45,000, are becoming commercially the most important of the immigrant races, as they have long been numerically and industrially. In Georgetown besides selling their own and all sorts of foreign goods at reasonable rates in small shops, they have large mercantile houses, and, as elsewhere, are gradually gaining a considerable control over the trade of the place. They also occupy positions of trust in foreign houses; and if there were a strike among them, all business, not excepting the post-office, would come to a standstill. I went into the Mercantile Bank and found only Chinese clerks; into the post-office and only saw the same, and when I went to the Peninsular and Oriental office to take my berth for Ceylon, it was still a Chinaman."

Fifth. A commission of three Chinese officials was sent out by the Chinese Government in August, 1886, to inquire into and report upon the condition of Chinese abroad. They spent thirteen months in their investigations—reporting in September, 1887. A synopsis of their report was printed in the London Times, from which we quote as follows (speaking of the Straits Settlements):

"Here the Chinese number about 150,000 and are the richest among the inhabitants. Four-fifths of the landed property is theirs, and large numbers of Chinese laborers pass through the port every six years. * * *

"The number of Chinese subjects at present trading or working in foreign lands is several millions, and in some ports the immigration is increasing and our merchants are thriving. The advanced prosperity of our people has attracted the attention of various foreign governments, and their jealousy has been aroused. The Dutch authorities have been endeavoring to expel the Chinese from their colonies, and collisions between the Chinese and natives are becoming of more frequent occurrence."

VI. JAVA.

Details of the present status of the Chinese in Java, a Dutch colony, are not at hand, but it suffices to say that they have been a constant cause of friction and trouble in the country. In Java there have twice been bloody encounters between the Chinese and the natives, in which many thousand Chinese were killed. In spite of this the Chinese population has steadily increased as follows:

1853	130,940
1861	151,855
1871	181,732
1881	206,961
1886	225,573

And as appears above by the statement of the Chinese commission, the Dutch Government is now considering steps to expel Chinese from the country.

VII. MANILA.

A restriction act has been put in force in August of this year in Manila, whereby a limited number only of Chinese are allowed to come on any one vessel, as a heavy poll tax is assessed on each one.

VIII. SAMOA.

Samoa has a total-exclusion act against Chinese. About a dozen went there from Honolulu within the year last past and were refused permission to land under any conditions.

IX. TAHITI.

Tahiti is a French colony, lying about 2,000 miles south of us. The Chinese population is about 800.

Tahiti has had an act in force for a number of years totally prohibiting Chinese of any class from landing.

Owing to scarcity of labor on the cotton plantations, the local legislature in August of this year passed a special act allowing a certain cotton planter to bring into the country 200 Chinamen upon the following conditions:

1. They are to come on three or five year contracts.
2. While in the country they are to be exclusively confined to agricultural labor on the cotton plantation and under no circumstances allowed to engage in trade at any time.
3. At the expiration of the contract they must either ship again or leave the country. (See Messenger de Tahiti of August 10, 1889.)

OUR OWN COUNTRY.

Having thus referred to the status in other countries, attention is directed to a few facts in Hawaii.

The first separate reference to Chinese in the census table is in 1866.

From 1866 to 1884, the date of the last census, the returns show the following facts:

	Total population.	Chinese.	Per cent Chinese.
1866.....	62,059	1,208	1.94
1872.....	56,806	1,908	3.41
1878.....	57,985	5,916	10.20
1884.....	80,578	17,989	22.27
1889.....	91,060	19,217	20.88

^a Estimated.

The estimate for 1889 is compiled from custom-house statistics and such record of births and deaths as are available. The customs statistics also show that during the period since 1885 the arrivals and departures of Chinese have been as follows:

Number of Chinese, as per census of 1884.....	17,937
Excess of Chinese arrivals over departures, 1885.....	1,556
Excess of Chinese arrivals over departures, 1886.....	195
Excess of Chinese arrivals over departures, 1887.....	52
	19,740
Excess of departures over arrivals, 1888.....	8
Excess of departures over arrivals, 1889 (nine months).....	520
	523

Estimated Chinese population September 30, 1889..... 19,217

The foregoing figures show that in the twenty-three years of 1866 to 1889 the Chinese have increased within a fraction of sixteen times the number that were here in the former year, and that they now constitute over one-fifth of our entire population. A large portion of the Japanese can be counted upon as a temporary population only, a large percentage of those whose labor contracts have expired having already returned home.

LICENSED EMPLOYMENTS.

Reference is made, secondly, to the principal license employments, the following being a compilation from the license records in the interior office from September, 1886, to September, 1889:

	Total number.	Chinese.	Per cent Chinese.		Total number.	Chinese.	Per cent Chinese.
Drivers:				Dray—Continued.			
1866.....	0	0	0	1881.....	41	2	4.9
1869.....	0	0	0	1885.....	88	7	13.2
1873.....	0	0	0	1889.....	55	10	18.2
1877.....	0	0	0	Beef butcher:			
1881.....	0	0	0	1866.....	9	1	11.1
1885.....	302	40	10.2	1869.....	15	2	13.3
1889.....	513	56	10.9	1873.....	17	2	11.8
Dray:				1877.....	36	2	5.7
1866.....	0	0	0	1881.....	41	7	17
1869.....	0	0	0	1885.....	72	12	16.6
1873.....	0	0	0	1889.....	97	20	20.6

	Total number.	Chinese.	Per cent Chinese.		Total number.	Chinese.	Per cent Chinese.
Wholesale merchandise:				Retail merchandise:			
1866	38	4	12.1	1866	196	54	27.5
1869	32	2	6.2	1869	251	87	34.6
1873	23	2	8.6	1873	243	95	40.3
1877	24	3	12.5	1877	268	143	53.3
1881	37	5	13.5	1881	468	281	60
1885	49	13	26.5	1885	643	378	58.8
1889	51	12	23.5	1889	636	393	62.7
Hack:				Victualing:			
1866	0	0	0	1866	38	19	57.9
1870	0	0	0	1869	20	11	55
1873	0	0	0	1873	32	24	75
1877	0	0	0	1877	42	32	76.2
1881	199	47	24.2	1881	125	100	80
1885	144	29	20.1	1885	166	116	69.8
1889	129	36	27.9	1889	136	117	84.7
Horse hiring:				Pork butcher:			
1866	55	0	0	1866	0	0	0
1869	65	2	3	1869	0	0	0
1873	62	2	3.8	1877	0	0	0
1877	105	3	2.8	1881	31	27	87.1
1881	308	80	26.6	1885	44	35	81.8
1885	135	31	22.9	1889	48	46	91.8
1889	84	13	38.2	Cake peddling:			
Wholesale spirits:				1866	0	0	0
1866	5	0	0	1869	0	0	0
1869	5	0	0	1873	0	0	0
1873	5	0	0	1877	15	15	100
1877	4	0	0	1881	23	23	100
1881	4	0	0	1885	24	24	100
1885	11	5	45.4	1889	29	29	100
1889	7	4	57				

The license employment statistics show that in the twenty-three years from 1866 to 1889 the Chinese have increased at such a rate from almost nothing that they now hold 10.9 per cent, or one-ninth, of the drivers' licenses; 18.2 per cent, or a fraction over one-fifth, of the dray licenses; 20.6 per cent, or a fraction over one-fifth, of the butcher licenses; 23.5 per cent, or a fraction under one-fourth, of the wholesale merchandise licenses; 27.9 per cent, or over one-fourth, of the hack licenses; 33.3 per cent, or over one-third, of the horse-hiring licenses; 57 per cent, or over one-half, of the wholesale spirit licenses; 62 per cent, or five-eighths, of the retail merchandise licenses; 84.7 per cent, or seven-eighths, of the victualing licenses; 91.8 per cent, or over nine-tenths, of the pork-butcher licenses; 100 per cent, or all, of the cake-peddling licenses.

An endeavor has been made to ascertain the number and nationality of those engaged in mechanical employments in the country. As the census returns do not give this information, recourse has been had to the registry of voters for 1887 and to circulars addressed to the principal employers of labor in Honolulu.

The results obtained are not sufficiently exact to be taken as perfectly reliable, but they are sufficiently certain to warrant the statement that there are in Honolulu now about 700 Hawaiian and foreign mechanics and skilled laborers other than Chinese and about 600 Chinese engaged in the same employments.

In the light of history, with the experience of what has happened and is now happening in other countries, the ministers feel justified in saying that unless adequate measures are adopted oriental civilization will extinguish and be substituted for the Anglo-Saxon civilization of this country.

The second proposition above stated is that "The perpetuation of Anglo-Saxon civilization is essential to the continuance of a free government and of the political independence of this Kingdom."

To a great extent the commercial prosperity of the country also depends upon the same condition.

Our present prosperous condition is due very largely to our existing treaty relations with the United States. We are now trying to extend and strengthen those relations.

With the strong feeling that has been manifested on the Chinese question in the United States, and especially on the Pacific coast, it is doubtful whether or not that country will willingly enlarge, or even continue, these treaty relations if it is understood that Hawaii is going to lapse into a Chinese colony without making a struggle to prevent it. We have no such geographical vantage ground as that held by Singapore, and the loss of the special treaty of advantages with

the United States would cause a commercial collapse in this Kingdom from which recovery would be slow.

The corollary of the above proposition is that Anglo-Saxon civilization can be perpetuated in this Kingdom "only by retaining a population who have been educated therein and who comprehend the workings and the benefits of popular representative government."

It is a self-evident proposition that there can be no representative popular government where the population is composed of a few rich men and a large number of alien, ignorant nonvoters.

An oligarchy is the inevitable government of such a population, with a strong probability that the islands would pass under the control of some foreign nation. An intelligent middle class is essential to every country which proposes to have free government. In spite of the competition which the figures stated above show the middle class in this country is subject to, there is still a large number of this class in the country, both Hawaiian and foreign by birth.

ARGUMENTS MADE AGAINST RESTRICTION.

Several arguments are made by those opposed to restriction and regulation of the Chinese. One of these is that "competition is the life of trade," that "the people get the benefit of competition," etc.

The answer to this is that there can be no "competition" between a Chinese and a white mechanic. It is simply a process of "substitution" of the former for the latter. A Chinese mechanic can and does live in his oriental style on wages upon which a person with the requirements of Anglo-Saxon civilization can not live, much less support and educate a family in a Christian manner.

The result in this country, more especially in the towns and in Honolulu, has been that by a gradual process of substitution Chinese have taken the places and are doing the work which, but for their presence, would be filled and performed by whites and natives. It is true that the number of white and native mechanics has decreased but little, but the increase of Chinese has taken up all and more than the increase of business; and but for the 600 Chinese mechanics in Honolulu there would be at least 400 to 500 white and native mechanics more than there are now. Unless protective measures are taken this process will continue in increasing ratio. We are on the highway which the footsteps of Singapore have trodden, and a like policy will produce like results, so far as Chinese ascendancy is concerned.

It is unquestionably true that, provided our treaty relations remain unchanged, commercial prosperity will continue and even increase at the islands without restrictive measures being taken. It has done so at Singapore. But it will be at the price which Singapore has paid—the substitution of Chinese for other population.

Another argument against further measures being taken is that "present legislation is sufficient to meet the emergency."

It is claimed that from the fact of a decrease in the Chinese population during the last nine months the point of danger is passed, and that with the present restriction law in force the evil will cure itself.

The present restriction law is better than nothing, and if it could be continued in effect until all or a large proportion of the Chinese now here had died or moved away, it would accomplish the object claimed for it; but meanwhile all or a large proportion of the population of the islands would also have died or moved away, and although a policy that will insure the relief of our posterity is laudable and proper it is not the whole of the relief now sought or necessary.

INSUFFICIENCY OF THE PRESENT RESTRICTION ACT.

The present restriction act is insufficient for two reasons:

First. Because there are already enough Chinese here to fill all or a large proportion of the occupations necessary for the support of the class of citizens whom it is desired to retain in the country.

Second. Because there is a necessity for laborers on both sugar and rice plantations which must be met if the prosperity of the country is to continue.

For the immediate present the sugar plantations are able to obtain laborers of other nationalities, but should those other sources fail there would immediately be brought to bear a tremendous pressure to allow the introduction of more Chi-

nese. Such a pressure is even now foreshadowed, and there are those among our citizens who look upon it as a grievance that they are not allowed to have more Chinese laborers, even though there is a sufficient supply of laborers from other nationalities. It is obvious that a gradual diminution of the Chinese population under the restriction act will be of no avail if we are at any time to have the worth of a year's restriction undone by the introduction of a single shipload of Chinese, with no legislation to prevent the new arrivals from engaging in any and every employment.

THE CABINET POLICY.

For the reasons above stated the cabinet, believing that the preservation of Anglo-Saxon civilization in this country requires such action, advocates such legislation, whether by the way of constitutional amendment or otherwise, as will accomplish the following objects, viz:

First. That no Chinese other than teachers and officials shall be allowed to come to this country except in the capacity of laborers.

Second. That no Chinese be admitted as laborers unless the agricultural necessities of the country require it nor until the legislation hereunder indicated is secured.

Third. That the Chinese not now engaged in trade or the mechanical occupations be prohibited from hereafter engaging in them.

We believe that the legislation hereby indicated is necessary and justifiable on the ground of self-defense and self-preservation, and is fully sustained in principle by the precedents cited above.

History tells of many invasions of one country by inhabitants of another in which the invaded people were conquered and blotted out as a nation. In those times the invaders came with fire and sword, and meeting with a like resistance they did not reap the benefits of the conquered land without the risk and danger of loss of lives. The invaded people fought in their own defense and no doctrine even in this age maintains that they were not morally as well as legally justified in resisting the enemy by every means in their power.

The Chinese have for the last twenty years been carrying on an invasion of this country which is not less effectual because it has been peaceful than the old invasions by force. They are now gaining all the advantages of a successful war without any of its dangers. Silently but surely, year after year and step by step, they are invading and taking possession of almost every means of livelihood in the country, and supplanting native Hawaiians and others of the Western civilization.

With these facts before us there is but one safe and honorable course.

To sit still and do nothing is both cowardly and suicidal. We must then meet this peaceful invasion by means as peaceful, but sufficient to reach and cure the evil.

The opponents of restrictive and protective legislation concerning Chinese are divided into two classes:

First. Those who look at the question from a purely material point of view and need cheap labor.

Second. Those who consider the question from a moral standpoint and contend that a "man is a man;" that a Chinaman has as much right in a country as anyone else, and that it is unjust to discriminate against a man on account of his nationality.

To those who urge the material view we would say that the cabinet fully recognizes that sugar and rice are the staples of the country, and that under ordinary circumstances cheap labor is necessary to raise these products in competition with other countries producing the same articles with the cheapest labor in the world. It is not the object of the cabinet and we know of no one who proposes to interfere with the necessary labor supply to carry on the plantations. On the contrary, it is the desire that the Chinese should remain on the plantations and not engage in those other employments which must be the means of support of those of Anglo-Saxon civilization, if any such are to remain here.

Moreover, the statistics of Chinese labor on the plantations show that the unregulated influx of Chinese has been of little, if any, benefit to the plantations.

The following facts are compiled from the reports of the board of immigration, the census tables, and custom-house statistics:

The number of laborers and of Chinese on the plantations is obtained by actual census.

	Chinese population.	Chinese on plantations.	Total laborers on plantations.
1878.....	5,916		
1880.....	a 11,085		
1882.....	a 14,545	5,087	10,243
1884.....	17,937		
1886.....	a 19,638	5,605	14,518
1888.....	a 19,737	5,727	15,578
1889.....	a 19,217		16,375

a Estimated.

The number of laborers on the plantations increased from 15,578 in January, 1888, to 16,375 in January, 1889, a total increase of 797. But during this period Japanese and Portuguese came into the country and went to work on the plantations to the number of 4,877; so that during that period there were 4,080 of the men at work in January, 1888, who had left the plantations before January, 1889. This decrease has been largely of Chinese and Portuguese. In what proportions the figures are not at hand to show, but no less than a thousand Chinese have left, and probably more.

This would give a rough estimate of 4,700 Chinese now on the plantations.

The effect of these figures is to show that the coming of Chinese to the country without restriction as to the employments in which they can engage is of little or no benefit to the planters, for in 1882, with 14,500 Chinese in the country, they had 5,000 on the plantations, while in 1889, with 19,000 Chinese in the country, there are less than 5,000 on the plantations. So long as other employments are open to them the Chinese will not work on the plantations, or will safely make such work a stepping stone to other employment.

From the mere material point of view, therefore, if the labor necessities of the plantations should require additional labor, which could be supplied from no other source but China, it would be of no avail to bring them here unless they were debarred from other employments. Shipping Chinese has almost entirely ceased and can not be resorted to without other precautions. The difficulties of identification and the facility with which they can desert service have demonstrated this to the financial damage of numerous planters.

In answer to those who urge the moral argument, we would submit that no such principle as that put forward by them has been or is recognized by any nation in existence. For instance, Hawaii discriminates in favor of America against England and Germany and all other nationalities by allowing American goods to enter the ports of this country without paying duties, while those of all other nations are compelled to pay heavy duties. This is not because of love for the American or dislike of the Englishman, but because it is for our advantage to do so; and the right of any nation to secure advantages to itself by reciprocal treaties, even to the manifest disadvantage of other nations, is so well recognized and established that we see England acquiescing in this discrimination against her workmen and manufacturers.

A few examples will show that this principle is recognized and acted upon by other nations to a far greater degree than in Hawaii. By law of the American Congress no foreigner can own land in the District of Columbia, and several of the States have similar laws. They do this because they consider it for their advantage so to do, and nobody claims that it is unfair or unjust, or that "because a man is a man" he should have this privilege. Within the last few years we have seen both Germany and Russia expelling from their territory all the citizens of certain nationalities whom they considered inimical to the interests of the country in which they were residing. Again, Hawaii discriminates in favor of her own citizens against the world in several lines of business. No one but a Hawaiian citizen is allowed to own a Hawaiian vessel, and none but Hawaiian vessels are allowed to engage in the interisland trade. But the constitution of 1887 exhibits the most striking illustration of this principle. By that instrument Chinese are prohibited under any and all circumstances and conditions from voting for the members of the legislature, so that by reason of their nationality Chinese are discriminated against in this, one of the highest privileges that a man can possess. We have yet to hear of the man possessed of an intelligence and a knowledge of the situation, who has bestowed thought on the subject, who questions the rightfulness or necessity of this clause in the constitution. A man may be a man, but that alone does not give him all the rights in Hawaii or any other country that any other man may have, unless by treaty with the nation to which he belongs such rights are secured to the subjects of such nations, or by sufferance we allow him to have such privileges without reciprocal privileges from his nation.

When we come to examine the question of what reciprocal privileges Hawaiian subjects are allowed in China we find there is not one right or privilege known to civilized man that is accorded by China to Hawaiian subjects. There is no necessity of going into the subject of the various employments which are debarred to Hawaiians in China, because the fundamental, elemental right of existence in this country is denied.

The only foreign powers whose citizens are allowed any privileges in China are those having treaty agreement with her, and even the privileges of such persons are confined to residence and trade in a few seaport towns.

The fact that we have heretofore suffered Chinese citizens in this country to enjoy privileges for which our citizens receive no reciprocal privileges in China gives to Chinese no title to now claim those privileges by prescriptive title as a matter of right.

It may or may not have been for our advantage to allow these privileges to Chinese heretofore. There can be no question of our right to restrict certain privileges and employments to our own citizens and to citizens of nations according us like privileges, if our interests require it, any more than there is no question that a man who may allow a neighbor the free use of a piece of land for a period of years has the right to resume the possession and use of it at any time.

Another point requiring grave consideration in connection with this subject, and entirely unconnected with the labor question, is the danger to the community by reason of the Chinese secret society organizations, their wanton disregard for human life, their concealment and assistance of criminals, and their perjury in courts of justice.

Taken singly or in small numbers many of the Chinese make good citizens; but the dangers above mentioned have shown themselves in every community where the Chinese have become numerous. Without going abroad, take this Kingdom, for example. One of the strong arguments heretofore used and still used in favor of the Chinese is his "peaceful, inoffensive ways." While the Chinese population was small and scattered this was true. But within the last few years their numbers and wealth have so increased that they feel their strength, and what are the results?

Within the past two years there have been three murders by Chinese secret society members on the island of Hawaii, in which large numbers of the members were concerned. In addition to the known murders several persons suspected of having given information to the police have suddenly disappeared, leaving no trace behind. With few exceptions, even when unimpeachable evidence was obtained, those concerned in the murders have been concealed by the societies and smuggled out of the country. Again, at the last session of the legislature it was proved that the Chinese, including some of the wealthy merchants, raised a large sum of money for the express purpose of bribing members of the legislature to vote against a certain measure. Five members admitted either having received the money or it was proved against them, and there was strong evidence against other members.

Again, the late insurrection would not have occurred but for the assistance of the Chinese. The evidence is overwhelming that no progress was made in the plans of the conspirators until the necessary means were provided by the Chinese. The Chinese supplied the rifles, muskets, and ammunition which were used or the money with which to buy them besides money for other purposes. They supplied the uniforms worn by the insurrectionists on the 30th of July and the provisions for their use on that day. It is also shown that although only one took up arms other, and among them men of wealth and standing, participated in the meetings and encouraged the conspirators. These facts have dangerous similarity to experiences with the Chinese in Sarawak and other countries where the Chinese have gone in large numbers.

It is unnecessary to advert to the many points urged in favor of the Chinese—their industry, their economy, their patience and perseverance. These virtues are well known and admitted in every country to which they have gone; but these do not change or refute one of the arguments used above in favor of restriction or regulation.

We have the honor to remain, your obedient servants,

JONA. AUSTIN,
Minister Foreign Affairs.
L. A. THURSTON,
Minister Interior.
S. M. DAMON,
Minister Finance.
C. W. ASHFORD,
Attorney-General.

HONOLULU, October 14, 1889.

There is nothing contained in this statement that is not as applicable to the situation now as then, with the exception that as possible tariff changes in the United States become more probable and the margin of profits on sugar become narrower the danger of an influx of Chinese becomes more imminent, as there will be a greater pressure brought to bear to break down present restrictions and prevent the passage of further protective legislation upon the subject.

Hawaii will not entirely go to the wall without the Chinese, even without reciprocity relations with the United States; but if Chinese immigration is again renewed on an extensive scale, more especially without the requisite legislation to prevent their engaging in employments necessary to the support of the natives and foreigners, Anglo-Saxon civilization in Hawaii will go to the wall.

It is better that some sugar planters should make less profits, or even none at all, than that a policy should be pursued which will, as surely and certainly as fate, substitute Chinese for Anglo-Saxon civilization and institutions in this country.

However, much this result may be denied and explained away, the fact remains the same, that wherever the two civilizations are brought into contact and allowed free play, whether in San Francisco, Australia, the Straits Settlements, or elsewhere, there is no "competition" in the accepted sense of that word, but an inevitable substitution of the Chinese for every other nationality.

There is no reason to believe that the principles governing this subject will be reversed in Hawaii. On the contrary, the facts above stated show that they are working along the same lines and as rapidly as they did at Singapore, and a like policy can only produce like results.

THE NECESSITY FOR ADDITIONAL LABORERS.

The necessity for additional laborers is made manifest by the statistics upon the subject.

On the 18th of March, 1890, a compilation of the number of laborers now on the plantations and of the probable requirements during the coming period was made and the following circular addressed to a number of those more immediately interested in the subject:

"Your attention is respectfully drawn to the following facts concerning the present and future labor supply and population of these islands:

"The number and nationality of laborers on the sugar plantations on January 1, 1888 and 1890, were as follows:

	1888.	1890.
Hawaiians	2,062	1,854
Portuguese	2,828	2,330
Portuguese women	359	271
Portuguese minors	445	416
	3,182	3,017
Japanese	2,870	6,646
Japanese women	429	914
	3,299	7,560
Chinese	5,727	4,517
South Sea Islanders	470	439
Miscellaneous	309	514
	14,999	17,895

"This shows a total increase during the two years of 2,869 laborers. It shows also, increase and decrease by nationality.

Hawaiians—decrease	208
Portuguese—decrease	115
Chinese—decrease	1,210
South Sea Islanders—decrease	37
Total decrease	1,570
Miscellaneous increase	205
Japanese—increase	4,261
Total increase	4,466
Net increase	2,896

"In January, 1888, there were: Japanese, 8,299, or 22 per cent; other nationalities, 11,700, or 78 per cent.

"In January, 1890, there are: Japanese, 7,560, or 42 per cent; other nationalities, 10,335, or 58 per cent.

"Since January 1 of this year there have come into the country 1,064 more Japanese, and requisitions have been filed with the board of immigration for immediate requirement for 1,200 Japanese and 600 Portuguese.

"The large increase of laborers during the period has not been caused by the opening of any new plantations, but by the simple expansion of existing ones. There is no reason to believe that there will be any less expansion during the coming than the last period.

"Three new plantations have been commenced during the last three months which during the coming period will require not less than 1,800 laborers, and three or four more are contemplated and will probably be started within that time, with a probable requirement of not less than 1,000 men.

"A tabulated statement of the laborers now on the plantations and an estimate of those who will be required during the period is, then, as follows:

On the plantations January 1, 1890	17,895
Additions since January 1	1,064
Estimated requirements of new plantations	2,800
Estimated requirements of existing plantations, say	8,000

Estimated total of laborers required on the plantations, January... 24,759

"If all the laborers now on the plantations remain where they are until January, 1892, the plantations will require, upon a conservative estimate, 5,800 additional laborers in the next twenty-one months if the legitimate expansion and prosperity of the industry is to be continued. But there is no reason to believe that all the laborers now on the plantations will remain there during the next two years. On the contrary, there is a certainty that as large a number will leave as did during the last two years, and probably more, from the fact that the sudden expansion in the banana business and the present prospect of activity in the railroad building of the country will probably draw away from the plantations more laborers than left during the last two years.

"A close estimate of the number of laborers leaving the plantations during the two years last past can be obtained from the fact that there were placed upon the plantations, through the board of immigration, 7,527 laborers, while the total increase of laborers for the same period was only 2,896, showing that the difference, or 4,631 of the immigrant laborers introduced, were required to supply the places of those laborers who had left the plantation during the period. Even if no more left than during the last two years, there will be required to fill the places of those who will leave, say 4,600, which, added to the 5,800, the number above estimated to be required by expansion and new plantations, makes a total of 10,400 additional laborers required during the period, without taking into consideration the additional laborers who will be required by the construction of the Oahu and Hamakua and Hilo railroads and other enterprises of which there is a fair prospect.

"If the industries of the Kingdom are to continue to increase and prosper, these additional laborers must be obtained.

"For the immediate present Japanese are available under the existing terms of contract, and probably some Portuguese can be obtained.

"The questions for consideration are, Where are these 10,400 laborers to come from?

"Can the country or plantations with safety add such a large number in so short a time to the number of Asiatics already here?

"Is there any other source from which laborers can be obtained?

"Is there any method of cooperation which can be engaged in by which so large a number of laborers can be prevented from leaving the plantations each year and thereby preventing the necessity of such a large immigration to fill such vacancies?

"It is necessary that early and definite action be taken concerning this subject, and for the purpose of ascertaining the views and opinions of those more immediately interested in the subject, you are respectfully invited to take the matter into consideration, and to meet the Cabinet and board of immigration to discuss it on Monday, March 24, at 2 o'clock p. m., at the foreign office.

"If you are unable to attend, I shall be glad to receive from you any suggestions which you may have to make in writing.

"I have the honor to be, your most obedient servant,

L. A. THURSTON,
*"Minister of the Interior and President
of the Board of Immigration."*

A meeting was held to consider the subject, but no satisfactory result was arrived at.

Senator MITCHELL. What is your opinion—we have had an expression of opinion from other sources—what is your opinion as to the sentiment of the home people here, working people, in regard to the subject of Chinese immigration?

Mr. HUMPHREYS. I think if it was submitted to the people, the present immigration laws would be voted upon—the Kahn-Mitchell bill in its application would be voted on favorably by about 70 per cent of the people. My opinion is formed upon conversations with the middle classes, laboring classes, and whites not absolutely under the control of the plantations.

Senator BURTON. What have you to say about the proposition of allowing Chinese to be brought here for the purpose of agricultural labor only?

Mr. HUMPHREYS. I have to say in regard to that that in order to make these laborers contented and keep them here we must duplicate oriental conditions. We would have to duplicate many oriental features of life antagonistic to American ideas and American sentiments, not only political, but ethical and moral. Another objection to it is if you bring—it is a serious question to bring a large number of single men into a country and require them to keep single. If they marry here their children born here become citizens of the United States under the Constitution. So you can take away the father and the mother, but the two or three children born here are citizens of the United States and have a right to remain. To bring in 15,000 men and require them to remain single is a proposition fraught with so many dangers that it will almost answer itself.

Mr. HUMPHREYS. This report discloses a wonderful amount of industry and research. I read carefully all of the arguments which were made in Congress pro and con on the Mitchell bill, and I must say no argument made presented the situation as clearly and as concisely, either from a rhetorical, legal, or historical point of view, as the document which I now hold in my hand (Biennial Report of the Board of Immigration). It is a valuable contribution to the social history of Hawaii, and I feel that I will not be imposing on this committee to ask that it go in as a part of the record in reference to labor conditions in these islands.

I stated the other day, gentlemen, in testifying before you, that 60,000 Orientals, 40,000 Japanese and 20,000 Chinese, were here. There are 60,000 Japanese, some say 80,000, and 20,000 odd Chinese, making a total of 80,000 Orientals.

Mr. HUMPHREYS. I was also asked with reference to the school children. I was unable then to furnish the committee with statistics, but can do so now.

According to the census of 1900, the total number of Chinese and Japanese born in Hawaii, under 21, in 1900, and consequently the number of citizens by birth, is 5,589. The total number of Caucasians is 5,720, or about 200 more than the Chinese.

Senator MITCHELL. That is, that many born prior to what date?

Mr. HUMPHREYS. Statistics for 1900. The population of the Territory of Hawaii is classified by race, sex, and nativity in the census of 1900. The total number of males in Hawaii is 79,427; that is, the total number of males 21 and over. It does not include males under 21. Now, out of a total male population over 21 of 79,427 there were only 11,000 voters.

Senator MITCHELL. Does that refer to the whole Territory—all of the islands?

Mr. HUMPHREYS. Yes, sir. Seventy-nine thousand four hundred and twenty-seven over the age of 21 and only 11,000 voters. In other words, in round numbers there are 68,000 people in this country who are not voters.

Now, there are 86,864 Chinese and Japanese in the Territory of Hawaii, according to the census of 1900, and a total population of all other races of 66,863, or an excess of Chinese and Japanese over all others—British, American, German, what not—of 20,000 in round numbers.

These statistics just quoted and the statistics which I now quote are from the report of the governor of the Territory of Hawaii to the Secretary of the Interior for the year 1901.

Senator MITCHELL. Under what authority was that census taken?

Mr. HUMPHREYS. Census? United States census.

Senator MITCHELL. Of 1900?

Mr. HUMPHREYS. 1900.

Senator BURTON. Reported in 1901.

Mr. HUMPHREYS. Reading now from page 74 of the report, it appears that in 1900 698 American school children attended school and 1,352 Japanese children attended school, or more than twice the number of Americans. There were 1,289 Chinese attending school—public schools—or about twice the number of American children. In other words, the total of Chinese and Japanese children attending the public schools in this Territory were four times—about four times—as large as the number of Americans attending school.

Mr. HUMPHREYS. Digressing for a moment to refer to the question of compensation of labor, the secretary of the Planters' Association testified that laborers were paid from \$18 to \$20 per month. Mr. Swanzey, the vice-consul, stated before the committee yesterday, in response to a question, after hesitating a moment, that the rate of wages was about \$18 per month. There is a discrepancy of \$2 between the statement made by Mr. Swanzey and that of the secretary, as I understand them. The secretary also stated that laborers in this Territory received a greater wage than that paid in Louisiana. He said nothing of the cost of living in Hawaii being correspondingly higher. I refer to page 69 of this report of the governor:

The cost of living is much higher than in most localities on the mainland, owing to the fact that nearly all of our supplies are shipped to us from long distances.

Eggs are 50 cents a dozen; butter, 60 cents a pound; an ordinary broiling chicken, \$1, brought down in cold storage; turkeys, \$3.50 a piece.

Senator MITCHELL. You would not advise the committee to eat any cold-storage turkeys?

Mr. HUMPHREYS. If you invoke my hospitality, I shall probably call upon the Chinese pork butcher, so that you may have good meat.

Senator MITCHELL. Will you put in a word or two there about the public schools? What is the arrangement about education of children generally? What is your system? Have you separate schools?

Mr. HUMPHREYS. No, sir; there are not separate schools.

Senator FOSTER. They are free schools?

Mr. HUMPHREYS. Public schools. There are no race distinctions. The races here have gotten along well together at all times.

Mr. HUMPHREYS. I made a statement before the committee the other day which seems to have been misunderstood. I thought it was misunderstood from the verbal statement of Mr. Swanzey. In reading with some degree of care the statement which was presented by Mr. Swanzey, the British gentleman, on behalf of the Planters' Association, I am in doubt as to whether I was misunderstood. I thought at first that I was. I made this statement:

These islands were annexed on July 7, 1898. The flag was raised August 12, 1898. The labor laws of the United States did not go into effect until the passage of the organic act, June 14, 1901. There is a hiatus of two years. I said to this committee that the Planters' Association, fearing when the organic act was passed, fearing the United States alien law, made an effort to flood the country with cheap oriental labor. In attacking that the Planters' Association said: "To show just what the conditions are in this respect it may be stated from August 1, 1901, to June 8, 1902, 5,352 Japanese men arrived in the country and 2,388 left the country, making a total increase of only 2,472, and that of Chinese 188 men arrived and 1,418 left, making a total decrease of 1,230, so there was a net increase in the Japanese and Chinese population of only 1,242, not including women, which number are not necessarily field laborers alone."

I made the statement with reference to the scheme of the Planters' Association to flood this country with cheap labor to the committee upon my honor. I was unable at that time to furnish statistics. Since then I have secured them from the board of immigration—United States immigration.

Senator MITCHELL. Do they differ from the statements in the memorial?

Mr. HUMPHREYS. The statement makes no reference to the Japanese imported into this country after annexation, prior to the going into effect of the organic act. I intend to show that during those two years they literally flooded this country. From July 12, 1898, until January, 1899, 5,221 Japanese were brought into this country under contract. In the year from January, 1899, to January 1, 1900, after the islands were annexed, 25,738 Japanese contract laborers were brought into this country. That fact is concealed as I believe *ex industria* by the gentlemen who presented this memorial. From January 1, 1900, to June 14, when the organic act became effective, 6,000 Japanese were brought into the country. From August 12, 1898, to the passage of the organic act, June 14, 1900, only 24 Japanese returned. In round numbers about 40,000 Japanese were brought into this country in the two years after annexation and only 24 returned.

Senator MITCHELL. Are you reading from the Commissioner of Immigration?

Mr. HUMPHREYS. I am quoting statistics furnished me which were gotten from his office. I say from August 12, 1898, the date of the annexation, up to the passage of the organic act, up to the time it went into effect, to wit, June 14, 1900, there was brought into this country in round numbers 40,000 Japanese, and only about 24 returned.

The general resolution to provide for annexing the Hawaiian Islands to the United States, commonly called the Newlands resolution, contains the following provision, among others:

The municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of the treaties so extinguished, and not inconsistent with this joint resolution nor contrary to the Constitution of the United States nor to any existing

treaty of the United States, shall remain in force until the Congress of the United States shall otherwise determine.

Now, these labor laws were in force after these islands became a part of the public domain of the United States, at least geographically.

This same resolution provided that—

Said cession is accepted, ratified, and confirmed, and that the said Hawaiian Islands and their dependencies be, and they are hereby, annexed as a part of the territory of the United States and are subject to the sovereign dominion thereof.

Now, the existing officers of the Hawaiian government, by proclamation of President McKinley, were continued in office. They were required severally to take the oath to support the Constitution and laws of the United States.

The thirteenth amendment to the Constitution of the United States declares—

That neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

It was expressly stated by Attorney-General Knox that this would operate even though other statutes respecting jury trials, tariff imposts, and duties might not apply. The language says, "any place subject to the jurisdiction" of the United States.

Senator MITCHELL. There is no question about that.

Mr. HUMPHREYS. The supreme court of the Territory of Hawaii dissented from the opinion which you have just expressed, Mr. Chairman. On June 8, 1899, a decision was rendered in the supreme court:

Actions under the masters and servants act are civil actions, and should be so entitled. (*Coolidge v. Puaiki*, 3 Haw., 814.)

Certain provisions of the Constitution of the United States are not in force in Hawaii during the present transition period, to wit: Amendments 5, 6, 7, 8, and 13, and Article III, section 2.

Senator MITCHELL. That refers to the transition period?

Mr. HUMPHREYS. What is called the transition period, when the Territory was under the jurisdiction of the United States, and these officers had taken oath to support the Constitution of the United States and the laws of the United States. The opinion of the court is by Whiting, J., and is found on page 97:

The defendants are laborers brought from Austria under contract to serve the Nonomu Sugar Company, whose sugar plantation is situated in the district of Hilo, Hawaii. Quitting their employment in September, 1898, and before the expiration of the period of three years, which they had contracted to serve, they were arrested upon warrants issued by the district magistrate of South Hilo and tried and convicted upon charge of deserting their contracts of service.

Senator FOSTER. What was the reason of their breaking the contract?

Mr. HUMPHREYS. That is not set forth, but the proposition is one of contract labor without reference to the particular reason that moved these men. They may have wanted to go somewhere else. They may have been treated well, but under the recognized system in the United States the labor contract can not be penally enforced.

Senator BURTON. Judge, is that held to be the law now in the islands?

Mr. HUMPHREYS. No; because it was expressly repealed by the organic act. But it was referred to yesterday as an old law, as though I was here talking about the Paleozoic age of Hawaiian history. As a matter of fact, this law was in force up to annexation.

I want to refer now to a number of Galicians who were brought in this country. Galicia is a small country under the dominion of

Austria. These Galicians were brought here to work on the plantations under contracts. After they came they were put to work on Oahu plantation. This is a concern under the control of H. Hackfeld & Co., a large German house. In fact the industries of these islands are under the control, many of them, of H. Hackfeld & Co. The majority of the sugar plantations are under the management of Theo. H. Davies & Co., an English firm, H. Hackfeld & Co., a German firm, J. M. Dowsett, English, and F. A. Shaefer & Co., a German concern. Many of the large stockholders in these plantations live abroad and are and have been without that vital interest in the development of the higher American civilization which a man living here does have.

These Galicians went to work on the plantation. Many of them claimed to be skilled mechanics, cabinetmakers, and said they were brought to this country under the belief that they could work at their particular trades and make \$40 or \$50 a month. They were put to work as the Orientals are on Oahu plantation. They claimed, whether well founded or not, but the determined character of these men in resisting these contracts tends to show them sincere in the position, they claimed that the food was insufficient in quantity, that they were required to work overtime, that they were unfairly dealt with in the matter of time—the time required to work. They declined to work. The result was that a large number of them came before the district magistrate and were sentenced to be imprisoned until they completed their labor contracts to their masters. They were lodged in the Territorial prison, where rapists, murders, men convicted of arson are kept, men who are convicted of the vilest crimes. They appealed to the consul of the Germans, Mr. J. F. Hackfeld, head of the concern that brought them out here, the concern that had control of the plantation under which they were contracted, on which they were working. They secured no redress through their appeal to the German consul. They remained for a period, I believe, exceeding six months in the prison. A number of public-spirited philanthropic citizens sent Judge Gear, then an attorney, got up a purse to send Judge Gear to President McKinley to sue for intervention. Under the plenary power that President McKinley held it was the opinion that his direction to the government would be obeyed. Judge started to Washington on that mission. He reached San Francisco, and the papers took up the fight. The result was that before Judge Gear got to Washington these people were released. They were white people.

Senator MITCHELL. Where does the great bulk of the money come from; from the mainland of the United States or from foreign countries?

Mr. HUMPHREYS. I am not prepared to say how it stands now. I can give you data during the year 1893. Stocks are bought and sold with great freedom. The situation is constantly changing. It is kaleidoscopic.

I want to refer to the treatment of the Porto Ricans and wish to read an extract from the recognized organ of the Planters' Association in Honolulu. It is this. I read from the Honolulu Advertiser, Honolulu, Thursday, January 17, 1901.

SHIP CAPTURED BY PORTO RICANS—KEAUHOU RETURNED FOR AID FROM POLICE—IMMIGRANTS ARE POOR LOOKING LOT—FOUR HUNDRED GO TO OTHER ISLANDS—PITIFUL SCENES AMONG THEM.

Misery and filth are not strangers to the 400 and more Porto Ricans who arrived here yesterday on the *City of Peking*, and who were hustled in island steamers to their islands where they are to work on the plantations.

The truth is but told when it is said that no more wretched lot of human beings ever came to these Hawaiian Islands.

Half starved and consumptive looking, dirty beyond all description, forlorn and absolutely without anything to cheer or comfort them in their poverty, they have come to this country in the hope that they will earn enough by honest toil to provide them with sufficient to keep body and soul together.

As they were transferred from the *City of Peking* yesterday to the island steamers which were to take them to their new homes, those who saw them were overcome with pity for their wretched condition. Poor little wasted infants, looking more like living skeletons than growing human beings, with little claw-like hands clutching at the breasts of sickly mothers, whose sad pity-beseaching eyes had long ceased to know the poor comfort of useless tears, caused many hearts to ache and many heads to turn away. It was not a sight to look upon long. The country which these unhappy ones has left has sent forth fearful examples of the conditions existing there. Here in Hawaii they are to find homes and food and wherewithal to clothe themselves and perhaps happiness. It is a change from positive suffering to contentment to them; for the country it is an experiment.

One who went among them yesterday morning told an Advertiser reporter that it would be some time before they could be expected to do any work. They have first to be nourished; they have to regain some of the strength which has been lost by semistarvation. It seems that they have been picked from the very poorest and most hopeless class in Porto Rico. It would be hard to imagine people in more destitute circumstances. About half the Porto Ricans are women and children. They very naturally have suffered more than the men. The men are better able to stand it. The dirt which was so evident on the person of the immigrants was not by any means only the stains of travel; it seemed rather to be the accumulation of days and weeks and even months of living in the most squalid circumstances. But how could they well be otherwise? Herded like cattle, each bearing a tag with his name and the name of the plantation to which they were consigned, bunched together in such a way that it was practically impossible for them to do much more than sit up to eat and lie down to sleep.

The surgeon aboard the *Peking* used a great amount of drugs on the way down from the coast in his attempt to fight malaria and dysentery among the Porto Ricans.

As soon as the *Peking* was at the Pacific Mail wharf the steamer *Helene*, of Wilder's company, went alongside of the steamship and 800 of the immigrants were immediately transferred to the smaller vessel. They were well managed and Captain Clark saw to it that they were well provided with food. The *Helene* then proceeded to Hawaii and Maui, where they are to be distributed among the different plantations. No trouble was experienced with those put aboard the *Helene*.

Later in the day the steamer *Ke-Au-Hou*, of the Interisland Company, was ready to take most of the remaining immigrants to Hmakua. A little over 100 were put aboard *Ke-Au-Hou* and early in the afternoon the steamer was ready to start upon her journey. Captain Olson commanded the boat.

The *Ke-Au-Hou* is not a large boat and when the laborers, the sickest looking lot of laborers who ever hired out, were aboard, there was hardly room for the crew to move around in.

It is fortunate for the two steamship companies that the Federal inspectors of hulls and boilers have not yet arrived to put the United States laws into effect in regard to the carrying of more passengers than can be properly or safely accommodated. If any accident happened either the *Helene* or the *Ke-Au-Hou* on their respective trips to the other islands, a great many lives would be lost, for there are not the necessary number of boats or rafts, etc., on the vessels to save half the number of the people which they carried.

The *Ke-Au-Hou* had no sooner gotten out into the stream, all ready to depart, before those on shore noticed a great commotion on board, and pretty soon someone came hurrying from the vessel in a boat, and after landing made a rush for the police station.

"What's the matter?" cried a dozen or more excited persons when they got wind of the fact that there was something wrong on the vessel and that a man from the steamer had hastened to seek police assistance. No one seemed to know what the trouble was, however, although there were all kinds of rumors of bloodshed and mutiny. Soon Deputy Sheriff Chillingworth arrived at the Interisland wharf with a couple of trusted men well armed, and they were quickly taken off to the steamer as she lay in the stream.

High Sheriff Brown came down about an hour afterwards to see what had been

done, and President Ena, of the Interisland Steam Navigation Company, also made his appearance on the wharf, together with representatives of the various companies which are receiving the laborers for their plantations.

When the police returned from the *Ke-Au-Hou* the story of what had happened aboard the vessel soon got around, and the rumors of bloodshed and murder were all knocked in the head.

A Porto Rican had captured the *Ke-Au-Hou*. He had taken the vessel away from the captain and all hands and had the whole ship's crew scared out of their wits. This was one of the Porto Ricans who was not quite as fat as he would have liked to have been. He was hungry; he wanted something to eat and there was nothing in sight for him and his fellows to consume. Being very hungry and very angry because the food for the entire lot of immigrants aboard had been dumped out on the forward hatch where the cattle are carried, when there are any cattle going on the steamer, he pulled out a knife from somewhere just as the vessel was getting ready for sea, and made for the pilot house, when he drove the native helmsman from the wheel. It is alleged that the steamship company had not properly provided for the immigrants, and that they had nothing to eat when they went aboard the *Ke-Au-Hou* and that nothing was ready for them when they got aboard that vessel. To be sure, there were something like four sacks of rice, it is said, and a barrel of salmon and even a barrel of pork aboard the vessel, besides some hard bread, for their consumption. It is said that the cause of the uprising of one man with a knife was that a lot of hard bread was dumped on the forward hatch for the immigrants to feed from. They kicked for the reason that they expected more than hard bread to eat and did not like the idea of eating from the deck. The man who captured the vessel and compelled the captain to send for the police said he represented the Porto Ricans aboard, and was carrying out the wishes of all when he held the vessel in port. He was not going to allow the vessel to go to sea until some understanding was reached with the authorities concerning food.

Captain Olson did not take the knife away from the Porto Rican nor did he attempt to do so. He dropped the anchor right in the middle of the stream and sent for the police. The police upon their arrival attempted to take the man who had wielded the knife ashore and lock him up, but the other Porto Ricans, through an interpreter, gave the authorities to understand that if the knife wielder was taken off the vessel they would not allow the boat to go to sea; that they would stay right where they were if they had to fight.

They also demanded the right to see some one who could settle the whole matter, so the police came ashore again and the man in question was sent for. The police came to the conclusion that it would be best to leave the man who had captured the vessel aboard or there was likely to be further trouble. High Sheriff Brown informed the steamship people that there was no necessity of there having been so much trouble over nothing, and it was intimated that the captain of the vessel had been smitten with "cold feet" when he was confronted with the solitary man with a knife. Brown said: "The captain could have handled the fellow in such a way that he would be unable to do any harm with the knife; that he should have used force to regain his ship after the Porto Rican had captured it."

"It's all very well to talk like that," said one of the steamship people after Brown had gone, "but the sheriff would be the last man to stand by Captain Olson if he had raised his little finger to the Porto Rican. He would have arrested and prosecuted him for murder or manslaughter if he had knocked him down in defense of himself and crew."

There was very little love exhibited between the police and the steamship people over the affair. The police were of the opinion that the captain and crew of the *Ke-Au-Hou* ought to have managed things better, and the steamship people were angry because the police did not take the knife wielder off the boat and put him in jail. Finally the steamship people demanded that a guard be sent along with the Porto Ricans on the steamer, and the sheriff sent down three men to look after things on the voyage to the Hamakua coast, and the man who had captured the vessel was left aboard.

Deputy Sheriff Chillingworth described some of the scenes aboard the *Ke-Au-Hou* as simply heart-rending. There was one little baby aboard, for example, who could not have been much over 8 months old. The poor little chap was so thin and wasted that he seemed deformed. He is not likely to live until he reaches his destination, and the mother, too, is dangerously ill with malaria. A great tag almost as big as the puny, dying little one, bearing the number "391," was attached to the child. The numbered pasteboard may soon mark its little grave.

All the immigrants were tagged in like manner. When there was trouble about the food supply aboard the steamer, however, they tore off their tags in anger and

threw them into the sea. This complicated matters a little, and is likely to result in some of them getting on plantations for which they were not intended. The numbers indicated their destination as well as their identity.

Mr. HUMPHREYS. I would like to state that these Porto Ricans who left the port of Ponce to come to the Hawaiian Islands were carried by water to New Orleans and from New Orleans thence to San Diego and from San Diego thence via steamer to Honolulu. When they were being transported across the American Continent, while being so transported, they were guarded by men with shotguns to keep any of them from escaping. And the San Francisco Examiner took the matter up, and the Chronicle too, I think, and also the Call, I think, identified itself with this piece of philanthropy. The result was that out of the second lot, landed at a port somewhere near San Francisco, the second lot was rescued by the Examiner, and positions and homes found for them.

I went to see these people who arrived here and I am prepared by my own testimony to corroborate this statement. They were a month getting here from Porto Rico and were herded like cattle. On the steamer, under the direction of the agents of the plantations, they were tagged. These are the efforts illustrative of the efforts that have been made by these plantations to induce white laborers to come to these islands and work on the plantations.

In order to see how they were treated I went about the time of the arrival of one of these vessels, whether or not it was this or some other I do not know, but I went to see them, and I made a trip to the island of Maui for the purpose of trying a case. On that was Mr. H. P. Baldwin, who is interested in the case. On the little steerage deck of the steamer below were a number of Porto Rican men, women, and little children, so herded that it was impossible for them to sleep at night. They were jammed and packed like sardines in a box. I went down among them and supplied them myself with food from the steamship table and gave the sick mothers all the milk I could get on the steamer. The *Ke-Au-Hou* is not a large boat and there was hardly room for the crew.

I spoke of an effort here to reduplicate oriental conditions. A few weeks ago—about six weeks ago—the board of health, seeing that a large number of Japanese physicians were coming into this country, many of them, perhaps, with no qualification to practice, adopted a resolution—I state this from the newspaper reports and from information and belief—passed a resolution requiring all Japanese physicians to stand an examination in English language. A German house here made representations that the Japanese here would then be dissatisfied, and the resolution of the board of health was chloroformed. A resolution suspending action for a period of six months was passed. I suppose, as it is a medical body, I may use the term chloroformed.

As going to show the effect upon the morals of this community and the effect upon the decency of white manhood of this community as the outgrowth of oriental conditions here, I ask that the following matter constitute a part of the record.

Senator MITCHELL. What is the document?

Mr. HUMPHREYS. "The charge of Judge Humphreys to the grand jury, February term, 1901, in the circuit court of the first circuit, Territory of Hawaii, relative to Iwilei, the prostitutes' stockade at Honolulu, and the charge of Hon. Morris M. Estee, United States judge for the Territory of Hawaii, to the Federal grand jury on April 9, 1901, relative to Iwilei, the prostitutes' stockade at Honolulu, and

the report of Mr. Victor H. Olmstead, special investigator, to the honorable Commissioner of Labor."

(This report appears as Appendix B to Mr. Humphrey's address September 13, 1902.)

Senator MITCHELL. That report states that this was under legal sanction. How is that?

Mr. HUMPHREYS. Mr. Olmstead shows what the legal sanction was.

Senator MITCHELL. In what way was it that the Government connected itself with this matter, if at all?

Mr. HUMPHREYS. The Edmunds Act, which was aimed to strike down polygamy of the Mormon Church, further forbids fornication. That act was subsequently amended by Representative Tucker, John Randolph Tucker, and is now commonly known as the Edmunds-Tucker Act, and prohibits polygamy, prostitution, fornication in all the Territories of the United States. That was applicable in this Territory after the organic act. The Territorial officers, however, absolutely refused to act. The high sheriff was under the control of the attorney-general, who exercises control and supervision over this place. I called it to the attention of the grand jury, but it became evident to me that the place was maintained to make the Japanese contented here. It was simply the outgrowth of the oriental policy. It was one of the things that come. I charged two grand juries, who reported the facts. The attorney-general made no effort to suppress it and took no action. There were sermons preached against it. Ministers declaimed against it. Articles were written against it by the papers. It was supported by the sugar-planters' organ, the Advertiser, and the Hawaiian Star, whose editor was an appointee of the governor.

Finally some church people who owned a little property near this stockade secured an injunction against this place on the ground that it tended to decrease the value of property.

The Attorney-General has the power to nol-pros any action brought by the Territory, and if this had been brought as a criminal action he would undoubtedly have nol-prossed the case.

The high sheriff had established hours of prostitution, all set forth and pasted on the outside of the walls. These rules and regulations were signed by the high sheriff.

The circuit judge granted a temporary injunction in the civil case, and the day after the injunction was issued by the court Acting Governor Cooper had the walls knocked down. But he did not do it, he refused to listen to the free and untrammelled press or to the voice of the Christian people until the court had issued an injunction, and then he went down, seeing the end was near, that the trumpet would be sounded, then he went down and ordered the place closed.

It was run under police supervision for over a year after the organic act was in force in these islands.

Senator MITCHELL. There is nothing of the kind tolerated by the government now?

Mr. HUMPHREYS. By the Hawaiian government?

Senator MITCHELL. Yes, sir.

Mr. HUMPHREYS. Since I have retired from the judgeship? First let me explain. Twenty-five or thirty years ago there was passed "An act to mitigate the evils of prostitution," and this act provided for the establishment of houses of prostitution. Since my resignation announcing my retiring from the bench the board of health has noticed considerable increase of disease in this Territory, and they have been

talking of enforcing the act to mitigate. I understand that a committee waited upon Judge Estee asking if he would stand in with the act to mitigate. This in spite of the Edmunds-Tucker Act, which forbids fornication. Judge Estee promptly answered that he would not be a party in such a measure.

I want to say here to the credit of the Hawaiian people that during the existence of the stockade I do not believe that but one Hawaiian woman was low enough to enter its walls.

The matter quoted (contained in Appendix B) will show that this institution was not only a flagrant violation of the laws of the United States by the officials who had sworn to support the Constitution of the United States, but it was also a flagrant violation of the laws of the Territory of Hawaii.

This report of Mr. Olmstead was such a shock to Carroll D. Wright, as he stated to me, that directly on its receipt he transmitted it to the Attorney-General of the United States, who took action in regard to the matter.

Now, something was said here the other day about the Chinese engaged in the rice industry. I don't believe that out of a large number of people engaged in growing rice there are two white men or two Hawaiians engaged in that industry. That, as tenants, is controlled almost entirely by the Chinese and Japanese. To bring Chinamen in to work on rice plantations would be to bring them in not to work for white men, but would enable Chinamen to secure Chinese labor. These rice plantations are controlled by the Chinese. The lessees are the Chinese. The Hawaiians lease their land to the Chinese for the cultivation of rice. The necessity of having Chinese labor on these rice fields may be noted, but to class them with plantations shows some inconsistency.

Mr. HUMPHREYS. In regard to the medical attendants on plantations here, I desire to state in regard to that, the taxpayers of the Territory of Hawaii, in a large measure, pay for these medical attendants, which is supposed to be paid for by the plantations. In country districts, under the guise of supplying Hawaiians with medical treatment, doctors are appointed called Government physicians. I know in the district of Waimea, Hawaii, \$600 is paid from the Territory of Hawaii and the plantation pays \$600, he to attend to the laborers of the plantation. The Territory of Hawaii actually pays 50 per cent, and in some instances, I believe, all of the doctor's fee.

Senator MITCHELL. The employees, however, get the service?

Mr. HUMPHREYS. The employees get the service. I merely wish to show the effect of these conditions upon taxpayers.

Mr. HUMPHREYS. Mr. Swanzey brought up the question and made the statement yesterday that at the grounds and buildings upon the naval station the work was performed by oriental labor. Captain Whiting, the United States naval officer, was standing by me and said that it was not true. I denounce it as false. Under the regulations of the Navy Department he was prohibited from employing alien labor and did not employ alien labor. As a matter of fact, the contracts were let to citizens of the United States. In two instances, I believe, some work was done there; an inconsiderable amount of work was done by them—the Japanese—not as employees of the Federal Government, but as employees under a subcontractor. The Department could not exercise control as to that. So that the statement that that work was done by Japanese, or that the United States officers here

have to employ them, was incorrect in the particular instance to which the gentleman referred, and is, I believe, as a general statement, false.

I desire to call attention, as I did the other day, and I do now most specifically, to the appropriations for police. I am sure that the people of this Territory are being taxed for policing a lot of oriental Japanese laborers on the plantations. This does not include the expense of judicial officers.

On Hawaii the population is 46,843 and the appropriation \$105,000, all under the control of the attorney-general. He has the disbursement of, in round numbers, \$500,000, and gives no bond. He is a relative, an appointee of the governor's. I want to say, parenthetically, that the mere fact that he is a relative of the governor's is no reason why he should be required to give bond. I do not want to be misunderstood. There are a number of very large sugar plantations, I believe more on the island of Hawaii than any other.

On Maui there is a population of 24,794, and the appropriation for the police is \$57,000—and that for a population of 24,794.

Mr. SMITH. Two years.

Mr. HUMPHREYS. Two years.

On the island of Oahu the population is 58,000, and the appropriation for police is \$170. When I say police I include sheriffs and deputy sheriffs.

On Kauai there is a population of 20,000, and the appropriation for police is \$40,000. On all these islands—Hawaii, Maui, Oahu, and Kauai—there are large sugar plantations, any number of them.

On the island of Molokai there is a population of 3,123, and on this island there are no sugar plantations and the police appropriation is only \$1,600. There are no Asiatics on that island except in the leper settlement, a few scattered here and there. Proportionately the appropriation is about 65 per cent less on the island of Molokai, where there are no sugar plantations, than on the other islands.

Senator FOSTER. There are more people living on the other islands, the plantation islands. There is nothing but the leper settlement on Molokai, is there?

Mr. HUMPHREYS. Take a little district—take a county in Kansas—where there is iron works, and, consequently, settled by 15,000 people together in a common city, there is a town marshal and two police. You can travel along the road 15 miles without going out of the supervisor's district or of the constable's beat. They need only a constable, two police, and a justice of the peace.

Senator MITCHELL. In places where there is large employment in the East the laborers require more police—in the coal mines and iron works.

Mr. HUMPHREYS. Statistics bear me out largely in cases of the number here. The amount of the police appropriation would be dependent upon the character of the laborers. No one will deny that if we had white laborers we would not need the same number of police.

I desire to make some observations in regard to leprosy. I regard that matter of vital importance. Congress should have every information on the subject possible—more than it now has—in view of the fact that a bill is now pending before Congress looking toward taking control of the leper settlement and using it as a lazaretto for lepers of the United States. An effort was made to this effect, I believe, by the Delegate from the Territory of Hawaii. I desire to make some observations in regard to it.

It costs the Territory of Hawaii, in round numbers, to support the lepers on the Island of Molokai \$750 per head. Each leper costs the Territory of Hawaii about \$750.

Senator MITCHELL. Per year?

Mr. HEMPHREYS. Per year. There are men living in this town and supporting families on less than that. Under the present patronage of the present government that has control it costs the enormous sum of \$765. Examine the appropriations in the report of the secretary and you will see that those supplies sent there do not equal the amount of patronage. The bulk of this is in patronage.

Mr. SMITH. One hundred dollars a year; about 1,000 people there. It is something under \$100 a year. I think you mean \$75 instead of \$750, the mistake is so obvious.

Mr. HUMPHREYS. I will ask to correct it in correcting my testimony, if I am wrong. It is almost impossible in referring to statistics to remember. In all other cases I have had the data before me, and it has been taken directly from recognized authorities. In regard to this matter I had undertaken to bear this data in my mind. If I have not been correct, which I am inclined to believe is the case, from the suggestion made by Mr. Smith, I will ask leave to correct it before I sign my testimony.

The fear that the United States will make a lazaretto of this country, that it will endanger the inhabitants, the attractiveness of the islands, to send all the lepers of the United States here is a claim not borne out by the number of lepers in the United States. I hold in my hand an extract from the Secretary of the Treasury in a report to the Senate, clipped from the Washington Post:

The Secretary of the Treasury yesterday sent to the Senate the report of a commission of medical officers of the Marine-Hospital Service appointed to investigate the origin and prevalence of leprosy in the United States. The report shows 278 cases of leprosy in the United States, distributed as follows:

Alabama, 1; California, 24; Florida, 24; Georgia, 1; Illinois, 5; Iowa, 1; Louisiana, 155; Maryland, 1; Massachusetts, 2; Minnesota, 20; Mississippi, 5; Missouri, 5; Montana, 1; Nevada, 1; New York, 7; North Dakota, 1; Texas, 8; Wisconsin, 8.

Of the total number, 176 are males and 102 females; 145 American born, 120 foreign born, and the remainder uncertain.

It is stated that 186 of the cases were contracted in the United States, but the opinion is expressed by the commission that this number is too large, and that some of these cases were brought from abroad.

This is going to be the policy of the United States—to establish a lazaretto for the lepers in the United States.

Gentlemen, it would be a solitary instance to let Hawaii care for its own lepers. As far as I have been able to sound public sentiment, they would look upon the change from the control of the Territory of Hawaii to the National Government as a great boon. Senators, I doubt if there are 25 men in Honolulu to-day—to show how carelessly the leper settlement is run by the board of health—who can tell you the name of the physician, the controlling physician, of these lepers.

Within the last six weeks a physician who drank, deserted his wife and children, was put in charge of the lepers, with no regard for public opinion and public sentiment. They sent him there, and within the last month they have discharged him. The papers did not say why, but I was informed they discharged him because he had improper relations with female lepers, in its criminal and revolting sense. This man was put in complete control of the lepers. It is a thing to chill one's blood in his bones.

I challenge anyone to deny that statement. The thing was not

prosecuted, and the attorney-general is, ex officio, a member of the board of health. That man was allowed to quietly leave the country because the board of health did not wish to expose its own carelessness, its own recklessness, in putting that man in charge.

The old laws of Hawaii are very scarce. I hold in my hand a copy of Hawaii's blue laws, 1840, constitution and laws. I would ask that it constitute a part of my testimony, so that the committee may have some information as to the history of earlier times. I desire to present it to the members of the committee. This book is now out of print. This is a reprint, but the reprint is now exhausted.

I said the other day we had judge-made law. The origin of that was way back in the year 1840, when the people who were the forebears of the people now in the Territory had control. Hawaii has a jurisprudence the like of which does not exist anywhere on earth, as I believe.

(The laws on pages 116 and 133 will be added to this address as an appendix.)

Mr. HUMPHREYS. Mr. Peckham, who represented the Builders' Association, the Builders and Traders' Association, appeared before you and had something to say. He began by saying very diplomatically and directly, referring to the question of the power of the governor, that any discussion of the race question would be unfortunate in any community and particularly in this country where there are so many races, and then he made immediately an adroit attack upon the electorate by proposing to diminish its power by requiring that the legislature should only have the right to pass a bill over the governor's veto by a three-fourths instead of a two-thirds vote. Now, inasmuch as the executive government has, it seems to me, a tendency, not only here but perhaps in some other portions of the country, to increase its power, I should like to make a few remarks with reference to that.

Senator BURTON. I do not think that is necessary to go into.

Mr. HUMPHREYS. I accept the suggestion. I desire to read reports of the legislature—the house journal, portions of it—to show that the governor's estimates were considered prodigal and extravagant. The offices proposed to be created by him were not created.

Senator BURTON. Give us that.

Mr. HUMPHREYS. I read now from page 164, senate journal, as it is the legislative assembly of Hawaii, as follows:

Senator White submitted the following report of the majority of the judiciary committee:

The majority of the judiciary committee, to whom the estimates submitted by the honorable governor to the legislature of the Territory of Hawaii for the succeeding biennial period was referred, respectfully begs to report that they have carefully examined and considered said estimates, and while the majority of the committee are of the opinion that many of the estimates are extravagant and even prodigal, being wholly, in a number of instances, out of all proportion to the necessities and requirements of the public needs, we deem it unnecessary at this time, if not a waste of time and labor, to analyze said estimates in detail. The bills to provide for municipal and county government, if passed, will materially reduce the services to be performed by the present Territorial officers; will also limit to a much smaller compass than that which they now enjoy the jurisdiction, power, authority, and duty of such officers, and the number of assistants and clerks employed by them. Until such bills are either passed or defeated, any attempt to estimate the necessary appropriations would only be speculative, imaginary, and altogether without profit.

The examination of the governor's estimates and of the appropriation bill as passed by the legislature will show that certain appropriations asked for by the governor were not granted by the legislature.

Senator BURTON. Do you know of any instance where the legislature made appropriations larger than that recommended by the governor?

Mr. HUMPHREYS. I do not.

Senator MITCHELL. Do you know how many vetoes there were last session?

Mr. HUMPHREYS. I think there were four or five. I would like to call your attention to one in passing. There was a taxation in this country prior to 1901 of \$3 on female dogs. It was prohibitive for the poor Hawaiian living in country districts to have a female dog. This has some bearing on the social life of the Hawaiian. There is a species of dog regarded by the Hawaiians as a table delicacy, called a poi dog. It is like putting a tax of 50 cents on a turkey gobbler and \$7 on a turkey hen and then say go into the poultry business. This is one of the bills Governor Dole vetoed. In vetoing the bill which the legislature passed to remove this \$3 tax, he did it on the ground that it would improve the breed of dogs in the country. At the same time the governor of Wisconsin vetoed a bill which sought to impose a tax on female dogs.

Senator MITCHELL. They viewed the matter from different standpoints, then?

Mr. HUMPHREYS. I intend to say nothing that the governor would feel offended at if he were personally present. I appreciate the opportunities which you are permitting me to enjoy.

On page 481 of the house journal for the regular session and extra session of 1901, Territory of Hawaii, the following resolution is to be found:

Whereas the governor of the Territory of Hawaii did make the charge to a committee of senators who called upon him on official business on Friday, the 26th day of April, A. D. 1901, that members of this legislature had accepted sums of money in exchange for their votes, or promise of sums of money for votes to be cast; and

Whereas such statements constitute a gross slander upon the members of this legislature which should be proven at once, if true; and

Whereas the several houses of this legislature are the judges of the qualifications and disabilities of their members: Therefore, be it

Resolved, That a committee consisting of one member of the senate, to be appointed by the president thereof, and two members of the house, to be appointed by the speaker thereof, be chosen to at once wait upon the governor and demand any proofs in his possession of the truth of his charges; and be it further

Resolved, That in the name of truth and decency, the governor be requested to extend this session for a term sufficient to permit the houses of this legislature to investigate these charges, which have now become a matter of common notoriety through the governor's reiteration of the same to a committee of citizens and to reporters for the newspapers of the Territory.

The resolution was passed. The governor replied as follows:

To the senate of the Territory of Hawaii:

The concurrent resolution of the legislature relating to a conversation between myself and a committee of the senate on the subject of bribery in the legislature, and asking for an extension of this session of the legislature for a term sufficient for an investigation of these charges by the legislature, has been delivered to me by a joint committee.

In answer I would say that I made no charge that members of the legislature had accepted sums of money in exchange for their votes, or promises of sums of money for votes to be cast.

What I did say was that I had information of a character that I could not ignore that bribery of members was going on in the legislature, and I deem such information sufficient ground for refusing an extension of this session.

Several charges of bribery of members of the legislature have been freely made in the local newspapers from time to time from an early period of the session, and

a charge of the existence of a corruption fund for the defeat of pending legislation was made some weeks ago on the floor of the senate, yet the legislature has shown no disposition to investigate such charges.

I am therefore unable to feel any encouragement that an extension of the present session would result in a bona fide investigation of the matter.

The government is investigating these reports and will endeavor to expose and punish the offenders if legal evidence can be obtained.

SANFORD B. DOLE.

EXECUTIVE CHAMBER, April 30, 1901.

Now, I contend that that message, that charge of the governor's might very well be put beside the papers of Charles II.

I will quit now, thanking you for your kindness and consideration. The commission adjourned until Monday morning at 9 o'clock.

MONDAY, September 15, 1902.

Mr. E. P. DOLE, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. DOLE. My name is Edward Pearson Dole. My age is 52. My occupation is that of lawyer.

Senator MITCHELL. What official position, if any, do you now hold and for how long have you held it?

Mr. DOLE. Attorney-general of the Territory, and I have held the position since June 14, 1900.

Senator MITCHELL. How are you appointed?

Mr. DOLE. I am appointed by the governor.

Senator MITCHELL. Any confirmation by the senate?

Mr. DOLE. Confirmation by the senate; yes, sir.

Senator MITCHELL. What assistants, if any, have you?

Mr. DOLE. There are, or were in June last, 315 persons in my department. The department includes the prosecuting officers, the sheriffs, and deputy sheriffs, who are also prosecuting officers in the district courts; the police, the coroners, the jails, and prison. The attorney-general is also ex officio a member of the board of health.

Senator MITCHELL. In what particular law or laws are the duties of your office defined?

Mr. DOLE. They are defined—

Senator MITCHELL. Just by reference.

Mr. DOLE. Chiefly in the chapter beginning on page 419 of the civil laws of 1897.

Senator MITCHELL. What amount of appropriations for the fiscal year, for the last fiscal year, were made by the government?

Mr. DOLE. The appropriations are biennial. The appropriations aggregate for the support of my department for the present biennial period \$620,719.95, of which \$20,000 was for the purchase of the Gamewell police and fire alarm system, the remainder for the support of the department.

Senator MITCHELL. What was the sum total?

Mr. DOLE. \$620,719.95.

Senator MITCHELL. Is the statute you referred to a moment ago, which you say defines the duties of your office, lengthy?

Mr. DOLE. No, sir; it is not.

Senator MITCHELL. I wish you would read it to the committee, that portion that defines your duties.

Mr. DOLE (reading):

CHAPTER 71.—*The attorney-general.*

SEC. 1013. The attorney-general shall appear for the government, personally or by deputy, in all the courts of record of this republic (Territory), in all cases criminal or civil in which the government may be a party or be interested, and he shall in like manner appear in the district courts when requested so to do by the marshal of the republic (high sheriff of the Territory) or the sheriff of any one of the islands.

SEC. 1014. He shall also be vigilant and active in detecting offenders against the laws of the republic (Territory), and shall prosecute the same with diligence. It shall also be his duty to enforce all bonds and other obligations in favor of government that may be placed in his hands for that purpose by any person having the lawful custody of such papers; and he shall likewise be diligent in prosecuting all persons who may obstruct any street, channel, harbor, wharf, or other highway, or any stream or public water course, or commit any trespass or waste on any portion of the public domain, or other public property.

SEC. 1015. The said attorney-general shall, without charge, at all times when called upon, give advice and counsel to the ministers (heads of departments), the marshal (high sheriff), sheriffs, collectors, justices, and other public officers in all matters connected with their public duties, and otherwise aid and assist them in every way to enable them to perform their duties faithfully.

SEC. 1016. It shall also be the duty of the said attorney-general to give counsel and aid to poor and oppressed citizens of the republic (Territory), and to assist them in obtaining their just rights without charge: *Provided, however,* That he shall not be obliged to render such aid, counsel, and assistance unless requested so to do by the president (governor), or by some one of the ministers (heads of departments).

SEC. 1017. Said attorney-general shall not receive any fee or reward from or in behalf of any persons or prosecutor for services rendered in any prosecution or business to which it shall be his official duty to attend, nor be concerned as counsel or attorney for either party in any civil action depending upon the same state of facts.

SEC. 1018. He shall account with the minister of finance (treasurer of the Territory) every three months for all fees, bills of costs, fines, penalties, and other moneys received by him by virtue of his office.

SEC. 1019. Said attorney-general shall, when required, give his opinions upon questions of law submitted to him by the president (governor), the legislature, or the head of any department.

SEC. 1020. The said attorney-general shall receive such salary as may be voted from time to time by the legislature, which shall be paid to him out of the public treasury in equal monthly payments in full for all services rendered by him.

SEC. 1021. The attorney-general may from time to time appoint a deputy for any judicial district, whensoever the exigencies of the public service may require it, and shall be responsible for all the acts of such deputy or deputies.

SEC. 1022. All the duties imposed by existing laws on district attorneys formerly are hereby required to be performed by the attorney-general.

CHAPTER 72.—*Police.*

SEC. 1023. The attorney-general shall have the care, supervision, and control of the entire internal police of the republic (Territory), subject to the provisions of this act.

CHAPTER 73.—*Prisons and houses of correction.*

SEC. 1048. The attorney-general, with the approval of the president and cabinet council (governor), shall have the power to erect such suitable prisons, jails, station houses, and houses of correction as may be necessary for the safe-keeping, correcting, governing, and employing of all persons duly committed thereto; and also, with the approval of the president and cabinet council (governor), to prescribe rules and regulations for their government and discipline.

CHAPTER 74.—*Care and custody of prisoners.*

SEC. 1070. From and after the passage of this act the care and custody of all prisoners detained in any prison of the republic (Territory) shall be transferred from the department of the interior (department of public works) to the depart-

ment of the attorney-general, and shall be included in and appertain exclusively to the department of the attorney-general, except as hereinafter otherwise provided.

SEC. 1071. The attorney-general shall hereafter exercise all such authority, supervision, and control over the marshal (high sheriff) and his subordinates, in relation to the care and custody of prisoners, as has heretofore been vested by law in the minister of the interior (superintendent of public works), and the marshal (high sheriff) shall hereafter be responsible to the attorney-general in all matters appertaining to the care and custody of prisoners, in like manner as he has heretofore been responsible to the minister of the interior (superintendent of public works) in respect thereof.

PENAL LAWS OF 1897.

CHAPTER 59.—*Public health.*

SEC. 868. There shall be a board of health for the Hawaiian Islands, consisting of seven members, three of whom shall be laymen, three physicians, and the attorney-general, *ex officio*.

ORGANIC ACT.

SEC. 71. There shall be an attorney-general, who shall have the powers and duties of the attorney-general and the powers and duties of the minister of the interior which relate to prisons, prisoners, and prison inspectors, notaries public, and escheat of lands under the laws of Hawaii, except as changed by this act and subject to modification by the legislature.

Senator MITCHELL. State what divisions you have in your office, and what are they?

Mr. DOLE. In my own office?

Senator MITCHELL. Yes, sir.

Mr. DOLE. I have a deputy.

Senator MITCHELL. In connection with your office as attorney-general, what divisions are provided for by law or otherwise?

Mr. DOLE. I have a deputy, and assistant, and clerk, and messenger, and a stenographer in my office.

Senator MITCHELL. What are their salaries, respectively?

Mr. DOLE. Salary of the deputy, \$3,000 a year; salary of the assistant, \$2,400 a year. They are both very able and reliable lawyers. The salary of the clerk, who has been in the office twenty years, is \$1,800 a year, and the salary of the stenographer is \$1,500 a year. The pay of the messenger is \$20 a month.

Senator MITCHELL. Are these positions created by law or are they created at your discretion?

Mr. DOLE. There are appropriations for the payment of them. The deputy attorney-general—his position is created by law, and the assistant is created only by appropriation of the legislature for the payment of an assistant to the attorney-general. There is a special appropriation for the payment of the stenographer and a special appropriation for the payment of the clerk, and the \$20 for the messenger is paid out of my incidental fund.

Senator MITCHELL. Now, outside of that, in addition to that, what are the divisions in your office, if any—I mean bureaus?

Mr. DOLE. A high sheriff is for practical purposes the chief of police. Under him is the deputy high sheriff. If it is proper for me to say so, they have both been in office a long time and, as I believe, are not only very efficient but absolutely incorruptible. Each island has a sheriff. Under the sheriffs are deputy sheriffs, and under the deputy sheriffs are captains of police, and below them constables and policemen, and there are coroners. Then there are jails in the differ-

ent districts, about 25 in all—some 24 or 25; I can't remember the exact number—and the prison here in Honolulu, with a most efficient and humane warden. Then there are prison guards, etc. I don't know whether I have answered your question, Mr. Chairman, fully.

Senator MITCHELL. What are the total number, you say?

Mr. DOLE. In the department?

Senator MITCHELL. Yes, sir.

Mr. DOLE. There were last June—the number is approximately the same now, I presume, with the exception of one or two—315 in my department on the regular pay rolls. Of these, 228 were Hawaiians, and the remaining 87 were mostly white men, one or two half-white men, of American or Hawaiian birth.

Senator MITCHELL. What are the aggregate salaries of all the persons in your department, including your own salary?

Mr. DOLE. The salaries, in which is included the pay of the police, are \$461,780. That is the appropriation. I would say that not quite that amount is spent, under my first annual report.

Senator MITCHELL. Was that for one or two years?

Mr. DOLE. For two years. Under my first annual report I kept, the first year, \$42,020 and some cents within my appropriation—within the aggregate of my appropriation; that is, the pro rata for the year. Since then the demands on the department, the work of the department has doubled in the last three or four years; my deputy has not had a vacation for three years and is a large part of the time working day and night, and the expenses naturally would increase very largely.

It is only by the most careful and painstaking economy, I think with more conscientiousness than I would bestow on my own affairs, that I have been able under existing conditions to keep under my appropriations. During the fiscal year just closed, half of the biennial period, the expenditures of my department were between five and six hundred dollars less than the aggregate pro rata of the appropriations, and on three appropriations I have exceeded the pro rata: The appropriation for the support and maintenance of prisoners. There are many more prisoners in jail than there have been before and the cost of beef, poi, and other essentials has increased. The pro rata was exceeded for the year by the sum of \$3.60. The appropriation for the expense of witnesses in criminal cases. The work of the term, as the work of my department, has to be as much figuring to do honest, efficient work at the least possible cost as it is to do the work, and with the conditions which exist on the islands and the amount of appropriation, especially on Hawaii and Maui, it is a study to get through the term at the least possible expense. My expenditures, I think I have stated, my expenditures for the past year have been between \$500 and \$600 less than the aggregate of my pro rata; but on the incidental fund—the incidental fund is the only appropriation which I have considerably exceeded.

Senator MITCHELL. I was about to ask you just what comes under incidental expenses.

Mr. DOLE. The incidental appropriation is \$30,000 for the biennial period. For the previous biennial period, with nothing like the strain, it was \$40,000. The incidental fund includes this: The traveling expenses of every official in my department. If a pair of horses is bought for the patrol wagon, if a horse is shod, if a broom is bought, if it becomes necessary in the exigencies of the work to employ counsel, if it becomes necessary to go anywhere, all these things are out of the incidental expenses.

Senator MITCHELL. Is there any law compelling you to report?

Mr. DOLE. Every item is reported to the auditor. The appropriation for detective work for the biennial period was \$6,500. For the previous biennial period it was \$13,000. I felt that informers had been employed in some cases where they had abused their office, and I felt that it was right that the sheriffs, some of them, should be somewhat restricted in employing informers. There were cases where I believed they had given false testimony.

Senator MITCHELL. Describe what you mean by the informer system in vogue here.

Mr. DOLE. It has been the practice in years past, and to some extent now, to employ informers, spies, to run down the illegal liquor places, gaming, and that sort of thing, which is perfectly necessary, I think.

Senator MITCHELL. They are officers created by law, are they?

Mr. DOLE. No; appointed.

Senator MITCHELL. The appointing of these informers, as you call them, then, is in the discretion of the sheriffs?

Mr. DOLE. Within the discretion of the sheriffs. I was going to say that the appropriation was reduced from \$13,000 to \$6,500 on my recommendation. The bills which come into the auditor's office for detective service ordinarily do not contain any itemized statement and probably not the name of the detective.

Senator MITCHELL. The amount paid them is fixed by the sheriff?

Mr. DOLE. The amount paid them is fixed by the sheriff, and the sheriff, as I understand, itemizes his account, with the exception of the secret-service fund. Not a broom, not a postage stamp—nothing which is spent under the incidental fund is spent without a voucher, which is signed by the officer incurring the debt and approved by me and filed with the auditor.

Senator MITCHELL. Are you able to tell how many of these were appointed in these islands last year?

Mr. DOLE. Of these—

Senator MITCHELL. Informers.

Mr. DOLE. Well, they are employed for particular cases.

Senator MITCHELL. Employed for a time and then dropped?

Mr. DOLE. For a time. Here, for instance, is a liquor place which the police are not able to get hold of. The sheriff employs a man to get evidence, pays him \$10, \$20—whatever sum may be agreed upon. With the exception of the detective fund, every item, the auditor's office shows every nickel that is spent in my department and what it is spent for.

Senator MITCHELL. What are the salaries of the sheriffs. Do you know?

Mr. DOLE. The high sheriff has \$3,000 a year.

Senator MITCHELL. High sheriff—you mean the sheriff for the whole Territory?

Mr. DOLE. Yes.

Senator MITCHELL. He gets \$3,000 a year?

Mr. DOLE. Yes; \$3,000 a year.

Senator MITCHELL. How many other sheriffs are there under him over the whole islands?

Mr. DOLE. I can not tell you exactly. It would vary. About 25. I mean deputy sheriffs and all.

Senator MITCHELL. What are their salaries?

Mr. DOLE. The salary of the deputy high sheriff is \$1,800—\$3,600 for the biennial period.

Senator MITCHELL. Fixed by law?

Mr. DOLE. Fixed by appropriation.

Senator FOSTER. Headquarters?

Mr. DOLE. Headquarters here.

Senator MITCHELL. I suppose the sheriff appoints men without any authority, reports to the legislature, and the legislature makes an appropriation. Is that it?

Mr. DOLE. The legislature makes appropriations, specific appropriations, so much for the pay of the police, so much for the salaries of the sheriffs.

Senator MITCHELL. Specific amount to a man—what is the sum total?

Mr. DOLE. Biennial period for each man?

Senator MITCHELL. For each man.

Mr. DOLE. For instance, the appropriations read in this way: "Salary of the attorney-general, \$9,000." And it was reduced, and reduced on my recommendation, from \$12,000 for the biennial period to \$9,000. I will say, to be correct, that my recommendation was \$10,000 instead of \$12,000. It was put at \$9,000. I would like to say in this connection—to go back a little, if the commission pleases. Judge Humphreys has made some—

Senator MITCHELL. Allow me a few more questions, then you are at liberty to state anything you may desire. General, what are the expenses of the Territory in your department for salaries?

Mr. DOLE. Shall I read here?

Senator MITCHELL. What is it?

Mr. DOLE. The appropriations for salaries for the biennial period.

Senator MITCHELL. Yes.

Mr. DOLE. (Reading:)

Salary of attorney-general	\$9,000
deputy attorney-general	6,000
assistant to the attorney-general	4,800
clerk to the attorney-general's department	3,600
stenographer	3,000
high sheriff	6,000
clerk to the high sheriff	3,600
deputy high sheriff	4,800
assistant deputy high sheriff	3,600
jailor, Oahu prison	3,600
sheriff of Hawaii	4,800
sheriff of Maui	4,500
sheriff of Kauai	4,200
clerk to sheriff of Hawaii	2,400
clerk to the sheriff Maui	2,000
clerk to the sheriff of Kauai	1,000
deputy sheriff of Hawaii	3,400
deputy sheriff of North Kohala	2,400
deputy sheriff of South Kohala	1,800
deputy sheriff of Hamakua	2,400
deputy sheriff of North Hilo	1,440
deputy sheriff of North Kona	2,400
deputy sheriff of South Kona	2,000
deputy sheriff of Kauai	2,040
deputy sheriff of Puna	1,440
Pay of police, Hawaii	65,000
Salary of deputy sheriff of Maui	3,000
deputy sheriff of Makawao	2,400
deputy sheriff of Lahaina	2,400
deputy sheriff of Hana	1,440
deputy sheriff of Kipahulu	960
deputy sheriff of Molokai	1,600

Pay of police, Maui	\$40,000
Salary of deputy sheriff of Kauai	3,000
deputy sheriff of Kawaihau	1,560
deputy sheriff of Hanalei	1,560
deputy sheriff of Koloa	1,560
deputy sheriff of Waimea	2,400
Pay of police, Kauai	25,000
Salary of deputy sheriff of Koolaupoko	1,200
deputy sheriff of Koolauloa	1,200
deputy sheriff of Waialua	1,800
deputy sheriff of Waianae	1,200
deputy sheriff of Ewa	1,800
Pay of police, Oahu	163,480

Monthly pay of officers in accordance with the following schedule:

Names.	Per month.	Period.
Senior captain	\$150	\$3,600
Assistant clerk high sheriff	90	2,160
Stenographer and typewriter	100	2,400
Clerk to deputy sheriff	80	1,920
Chief detective	150	3,600
Japanese interpreter	100	2,400
Hack inspector	125	3,000
Assistant hack inspector	100	2,400
Two patrol-wagon drivers	each 75	3,600
Two clerks, receiving station	do 60	2,880
Two turnkeys, police station	do 75	3,600
Two district court officers	do 75	3,600
Two harbor police	do 75	3,600
Two Chinese officers	do 60	2,880
Two Japanese officers	do 60	2,880
Four special police	do 75	3,200
Four special police	do 60	5,760
First watch:		
One captain	80	1,920
One lieutenant	65	1,560
Ten officers	each 60	14,400
Two bicycle officers	do 65	3,120
Four mounted officers	do 90	8,640
Second watch:		
Same as first watch		29,640
Third watch:		
Same as first watch		29,640
Koolauloa, two officers	each 45	2,160
Koolaupoko, two officers	do 45	2,160
Waialua, two officers	do 45	2,160
Ewa and Waianae:		
Ewa, four officers	do 45	4,320
Waianae, one officer	45	1,080
Total		158,280
Emergency fund		5,200
Pay of jailors, lunas, and guards of prisoners		163,480
		53,000
		461,780

Department of the attorney-general:

Support and maintenance of prisoners	\$90,000.00
Incidentals, civil and criminal expenses	30,000.00
Coroner's inquests	5,000.00
Expenses of witnesses in criminal cases	7,000.00
Detective service	6,500.00
Police call-box system	20,000.00
Reimbursement of H. M. Dow	439.95

Total

158,939.95

Senator MITCHELL. Salary for the police?

Mr. DOLE. I said \$65,000.

Senator MITCHELL. For police?

Mr. DOLE. For police on the island of Hawaii.

Senator MITCHELL. Now what constitutes the police there—the police force that uses up that money?

Mr. DOLE. I can't give you the exact number now.

Senator MITCHELL. Is there a chief of police?

Mr. DOLE. The high sheriff.

Senator MITCHELL. He is considered the chief?

Mr. DOLE. Yes. I would say this in regard to these expenses: The conditions which have existed from the beginning of centralized government have been quite different from what you are accustomed to in the United States. There is the government of this territory which is centralized to an extent unknown in the United States, and probably almost as much centralized as it was in France under Louis XIV. It is possible to run the government of these islands in this way only because the country is so small. In many districts the population is incapable of local self-government, and it has been the custom to have efficient, unselfish, honest, and wise officials at the head of affairs, and the result is a great deal better government than could be had if it were decentralized. There are two sides to it. There are objections and there are arguments in its favor, but it has always been so. Now, here there is only one tax. Take an American State and there is the Federal revenues, there are State revenues, there is State tax, county tax, and city tax, school-district tax, the highway tax, and so on ad infinitum. Here everything that the public pays for—school teachers' salaries—everything is centralized in one administration, so that it all comes from one tax, and that is divided into departments. Now, for example, the office of attorney-general. In the American State the attorney-general is the legal adviser of the governor, and appears in the supreme court to aid the local attorneys who are elected by the local constituency, and occasionally there may be an important case in which the Government is interested; he appears in that. Here the attorney-general is not only that, but has the whole transactions of criminal prosecutions of every kind under his absolute control, through his subordinates, and also he is the adviser by statute of every department except the judiciary and every bureau in the government; he is the attorney as far as he can be of the government in its interests; and I will say here that the public lands amount to many millions of dollars of value. There are thousands of acres of agricultural lands. The government is a great landowner. This hotel where we are sitting was built and run by the Hawaiian government under the monarchy, and was sold by the republic. It is a small community. It has grown up under insular and isolated conditions. The character of the population and the institutions which grew up with the ages have brought about this condition of affairs. I am not advocating this system at all, but I know that it has been run honestly. Possibly there have been mistakes made; I disagree with other members of the administration just as much as anybody else. It has been run—everybody knows who speaks the truth and is familiar with the conditions—it has been run honestly in the interest of the public good and as the heads of the departments have seen it.

Senator MITCHELL. I appreciate there is a difference in the way you conduct public affairs from the way they are conducted in the mainland. What we are here for is to find out what condition, laws, what your system is and its cost, and if there is anything that is better; after we have heard all sides, we will suggest it. If we

think it is better we will say so. You are on the right lines—giving information.

Mr. DOLE. My idea, Mr. Chairman, my idea is this: That the government which protects life, liberty, and property, which honestly and unselfishly seeks the public good, is a good government whatever it may be, whether it is a monarchy, oligarchy, republic, democracy, whatever it is, is the best government.

Mr. MITCHELL. True. But we are not imperialists in this country.

Mr. DOLE. I am not advocating it, Mr. Chairman, at all. The conditions here, that there is a golden mean between the conservative, who does not want to change, but wants to keep everything as it was, and the radical, who would change things with a smash. In other words, that there should be just as fast as possible, consistently with law and order and without wrecking vested interests, there should be a tendency toward the American idea; not a revolution, not a crash, but evolution. The conditions here are not ideal. I don't think they are ideal in the States in many ways. In some respects they are better here and in some respects they are better there.

Senator BURTON. Just at this point, before you proceed, just give a few more facts.

Mr. DOLE. I want to state in regard to the pay of officers.

Senator MITCHELL. Well, go on.

Mr. DOLE. This is a very expensive country to live in. Eggs are 50 cents a dozen, cord wood is \$15 or \$16 a cord, hay is 30 or 40, or sometimes more, dollars a ton; a little fish costs as much here as a big fish in the States; meat is very high; good milk 15 cents a quart; everything is expensive. Now, for instance, in running my department, I say the work of it has doubled and it is only by the closest attention that it can be kept within the appropriations. Now, I am a Republican and have been from my birth. I believe in employing local men, other things being equal. I needed an assistant here more than a year ago. I applied to five men here, good lawyers, good Republicans, and they said they would be very glad to come in, but beef-steak cost too much. I wrote to a man in California. I said he was an utter stranger to me except by reputation. I said I don't know your politics. This is a Republican Administration and other things being equal I would rather have a Republican. I told him from sources of reliable information I am told you are the kind of a man that I want. I knew he wanted to come down here on account of his health. I said I can not give you any pecuniary inducement to come into my office. The only thing I want is to run that office as efficiently as possible. I could not get a man here for the salary. I can give you an opportunity to show what is in you. That is all I can do for you. Other things being equal I should appoint a native before I would a white man, because it is their country. Other things being equal I would appoint a Republican before any other, because I am a Republican and it is a Republican Administration, but the first and foremost thing is to get the most honest and efficient service I can get. That is the only way I can run my department. That is the line the government has been run on ever since the overthrow. In some respects I think the present salaries are a mistake. They are too small. They are too small for the reason that it is so much more expensive to live here. My deputy gets \$3,000 here and he is one of the best lawyers and one of the most efficient and fair-minded men in these islands. It is no pay for him in this country, but it is all I can give him.

Senator MITCHELL. Are you acquainted with the cost of living in California, General?

Mr. DOLE. I should say from what I hear that the cost of living in California—that \$1,500 there would be the substantial equivalent for \$2,500 here.

Senator MITCHELL. What I want to get at is your judgment of the cost of living in the two countries.

Mr. DOLE. The majority of people would tell you about twice as much, but I am inclined to think that is a little exaggeration.

Senator MITCHELL. How are rents?

Mr. DOLE. Rents are very high in Honolulu. I don't think they are quite as high as they were a year ago, but they are very high; and if one owns his house, material and building is very high and the house has to be constantly looked after to prevent borers and worms from eating it up. If a house is left to itself for a short time it goes to destruction.

Senator MITCHELL. How are the tenement houses provided for water, General?

Mr. DOLE. The water system is very good in Honolulu.

Senator MITCHELL. Is it expensive?

Mr. DOLE. You are asking me questions that everyone knows better than I do.

Senator MITCHELL. All right. I will not take you off your subject. Is the board of health in your department?

Mr. DOLE. I am ex officio member of the board of health, and the attorney-general by custom has been president of the board of health. I accepted the office on condition that I should not be made president. My friend W. O. Smith is responsible for that law. It is a bad law.

Senator MITCHELL. Who constitutes the board of health?

Mr. DOLE. The attorney-general ex officio, three physicians, and three laymen.

Senator MITCHELL. Have they any salary?

Mr. DOLE. They have none.

Senator MITCHELL. I would say that the province of the board of health was very great.

Mr. DOLE. It is for the whole Territory. We are at the cross-roads of the Pacific, with cholera and plague, with all sorts of epidemic diseases, passing back and forth. Three-fourths of the population have no idea of sanitation. On the plantations it has constantly to be looked after. Then the leper settlement. Two or three months ago—I do not remember now exactly, but two or three months ago—there were 887 or 888 lepers and kokuas and others at the settlement, and the problems of the board of health are great. The members of the present board of health are all gentlemen of high character, of great public spirit.

Senator MITCHELL. Kindly give their names.

Mr. DOLE. Dr. Sloggett (president), Charles B. Cooper, and Dr. Moore constitute the medical members. Mr. Isenburg—D. P. R. Isenburg—Mr. Fred Smith, and Earnest Mott-Smith constitute the lay members, and the attorney-general ex officio.

Senator MITCHELL. You say there are no salaries? From what source do they draw the money which they recommend to be used?

Mr. DOLE. It is from appropriations by the legislature.

Senator MITCHELL. Well, is that included in your appropriations?

Mr. DOLE. No; it is independent.

Senator MITCHELL. Independent appropriation?

Mr. DOLE. I am only a member ex officio.

Senator MITCHELL. So that none of this money appropriated for your department goes to the board of health?

Mr. DOLE. Not a dollar.

Senator MITCHELL. Can you point us to the appropriation for the board of health?

Mr. DOLE. Yes; the board of health has for salaries of executive officers \$194,766.

Senator MITCHELL. Now, just a moment. The doctors themselves get no salaries?

Mr. DOLE. No salaries.

Senator MITCHELL. Who does get these salaries?

Mr. DOLE. The executive officer gets \$4,800. He is a physician.

Senator MITCHELL. Biennially?

Mr. DOLE. Biennially. He is a man who works probably fifteen hours a day about seven days in the week.

Board of health—appropriations.

Salary of executive officer	\$4,800.00
secretary	4,000.00
food commissioner and analyst, including poi	4,200.00
city sanitary officer	3,600.00
food inspector and purchasing agent	2,400.00
Pay of government physicians:	
Waimea, Kauai	1,440.00
Koloa, Kauai	1,440.00
Lihue, Kauai	1,440.00
Kealia, Kauai, and Hanalei, Kauai	1,800.00
Honolulu, 2 city physicians	4,800.00
Ewa, Oahu	960.00
Waianae, Oahu	1,200.00
Waialua, Oahu	1,200.00
Koolaupoko and Koolauloa	1,440.00
Molokai	2,400.00
Lahaina, Maui	2,400.00
Wailuku, Maui	2,400.00
Kihei, Kula, Maui	1,440.00
Makawao	1,440.00
Hana, Maui	2,160.00
North Kohala, Hawaii	1,200.00
South Kohala, Hawaii	1,200.00
North Kona, Hawaii	1,440.00
South Kona, Hawaii	1,440.00
Hamakua, Hawaii	1,440.00
North Hilo, Hawaii	1,440.00
Hilo, Hawaii	1,200.00
Olaa, Hawaii	600.00
Puna, Hawaii	1,200.00
Kau, Hawaii	1,440.00
Pay roll, general expenses:	
Meat inspector and veterinary	4,200.00
Bacteriologist and pathologist	4,200.00
Three inspectors, at \$2,160 each	6,480.00
Three inspectors, at \$1,920 each	5,760.00
Registrar of deaths	2,400.00
One sanitary inspector for Hilo	1,920.00
Milk and poi inspector	1,800.00
Fish inspector	1,440.00
Assistant fish inspector	960.00
Fish and poi inspector, Hilo	720.00
Stenographer	1,920.00
Morgue attendant	1,200.00
Janitor and messenger	720.00

Pay roll, general expenses—Continued.

Officer for registered women	\$360.00
Nonleprous children	3,182.00
Inspector of plumbing and house sewers	4,200.00
Assistant to inspector of plumbing	3,000.00
Segregation of lepers' pay roll	60,720.00
Maintenance of hospitals	3,840.00
Superintendent and assistants, insane asylum	25,584.00
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	194,766.00

Senator FOSTER. That is all biennial?

Mr. DOLE. Everything is biennial.

Board of health—Appropriations.

General expenses	\$13,000.00
Disinfectants and vaccine	2,000.00
Medicines for Territorial dispensaries	9,000.00
Support of nonleprous children of lepers	20,000.00
Insane asylum	24,000.00
Segregation, support, and treatment of lepers	171,000.00
Kalaupapa store	45,000.00
Stamped envelopes for free use of lepers	2,000.00
Koloa Hospital, Kauai	1,500.00
Waimea Hospital, Kauai	3,500.00
Lihue Hospital, Kauai	3,600.00
Malulani Hospital	8,000.00
Hilo Hospital	12,000.00
Queen's Hospital	40,000.00
Hospital for Incurables	2,000.00
Kapiolani Maternity Home	9,600.00
Fumigation expenses	10,000.00
Receiving hospital, dispensary, and morgue	25,000.00
Claim William Thomas Callow, to be paid upon his giving a receipt in full for the poi thrown away	100.00
Claim Kalilikane, to be paid upon his giving a receipt in full for the poi thrown away	408.25
Freight and passenger guaranty for weekly common-carrier service between Honolulu, Oahu, and Kannaakakai, Kamalo, Pukoo, Halawa, Wailau, Pelekunu (Molokai), Lahaina, Kahului (Maui), Kahalpalaoa, Manele, Awaia (Lanai), not to exceed the sum of \$5,200, and to be awarded after public bid or tender to the lowest bidder	5,200.00
Unpaid bills, bubonic plague	7,860.21
Unpaid bills incurred on account of bubonic plague:	
American livery stables	\$7.50
Ah Chew Brothers	7.50
Benson, Smith & Co	72.21
California Feed Company	63.99
City Supply and Feed Company	4.00
Dairymen's Association	11.40
Fashion Stables Company	138.50
Green, Cyrus	61.00
Harrison, F	548.60
Chinese News Company	24.00
Hawaiian News Company	9.50
Hilo Drug Store Company	3.85
Holmes, E. N	1.60
Hawaiian Commercial and Sugar Company	9.35
Hustace & Co	528.50
Hawaii Shinpo Sha	7.00
Interisland Steam Navigation Company	2,140.00
Irwin & Co., W. G	157.00
Kreuger, F	33.00
Kahului Railroad Company	1,079.28
Kalaupapa, C., (2) vouchers, cleaning Waiolama swamps	79.50
Kaapana, Kaapa & Ku (pay roll)	48.00
Love's bakery	38.40
Lockington, G. W	8.00

Unpaid bills incurred on account of bubonic plague—Cont'd.

Dr. R. P. Meyers (specific salary, exceeding \$1,800 part of time)	\$97.25
Makaainana Printing House	7.00
Merchants' committee	682.00
Metropolitan Meat Company	29.75
Marine-Hospital Service	2.50
Oahu Lumber and Building Company	200.00
Paia Plantation Store	205.55
People's Express Company	4.50
Pukalani Dairy	73.10
Paakaula, J.	150.00
Perry, A.	6.75
Reis, M.	12.00
Singer's bakery	5.25
Smith, J.	56.00
Teves, A.	1.50
Union Express Company	26.25
Union Feed Company	9.94
Volcano Stables Company	3.75
Weedon, W. C.	19.15
Wilder Steamship Company	12.50
Wilcox, W. L.	11.25
Wilcox, C. (specific salary exceeding \$1,800 per annum)	400.00
Watt, Dr. H. C., (2) vouchers P. M. examination, wrong appropriation	40.00
Wright, W. W.	35.75
Yamato Shinbun	10.00
Zumwalt, J. L. W.	125.00
Emmeluth, J., & Co.	9.99
Iao Stables Company	29.50
Scrimgeour, A. B.	20.00
Andrews, L. A. (cash advanced)	133.00
Barnard, E. W.	26.45
Hackfeld & Co.	27.40
Herring, J. M.	24.00
Hilo Mercantile Company	107.20
Kauai, U.	6.20
Lewis, Peter	21.00
Rapozo, Joe	1.50
Shipman, W. H.	11.40
Serrao Grocery	3.40
Volcano Stables	35.00
Wing Man Ching	1.25
Waieka Boat House	94.50
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	\$7,860.21
Unpaid bills, 1897, 1898, 1899, 1900, and 1901	1,509.40
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	436,277.86
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General expenses, unpaid bills, 1897, 1898, 1899, 1900, and 1901:

Aloha Aina Printing Office	\$13.00
Bulletin Publishing Company	99.00
City Furniture Store	302.50
Davis, George A., and P. Neumann	200.00
Hawaiian Gazette Company	259.50
Hawaiian Star Company	158.00
Honolulu Republican	29.00
Honolulu Chinese Chronicle	45.00
Hilo Tribune Publishing Company	78.00
Makaainana Printing House	78.00
Maui News	86.00
Mercantile Printing Company	29.50
Robert Grieve Publishing Company	29.50
Shin Nippon Sha	13.00
T. G. Thrum	17.65
Yamato Shinbun	8.25
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	1,509.40

Senator MITCHELL. Now I wish to ask a question about the leper business. Are marriages permitted between lepers?

Mr. DOLE. Yes.

Senator MITCHELL. How is that leper settlement divided as to persons who are married and persons who are not, if you know?

Mr. DOLE. Well, the leper settlement consists of two small villages, Kalaaupapa and Kalauao, 2½ miles apart. Most of the lepers live in cottages. The cottages are better on the average than the homes of people in ordinary circumstances throughout the Territory. They are well supplied with water, and the planting of trees and flowers is encouraged. The lepers, where it is possible, live as they would anywhere else in homes. A good many of them have kokuas.

Senator MITCHELL. What are kokuas?

Mr. DOLE. This: If, for example, a woman is so sick, in such a condition as to need constant attendance, and her husband applied for permission to go over there a kokua. He goes there and takes care of her. It is in the discretion of the board of health. It depends upon their discretion, for there would be a very large population if everybody they wanted to go was allowed to go.

Senator MITCHELL. You say there are marriages and children born. Does the government take supervision of these children, and what precisely is done with them?

Mr. DOLE. I think those children go mostly into charitable schools.

Senator MITCHELL. They are permitted to be distributed out in the community, are they?

Mr. DOLE. Yes.

Senator MITCHELL. What do you think of that?

Mr. DOLE. I am not a medical man. I have the idea that it is a proper thing. I presume there can be no question about it, but I can't speak as a doctor would.

Senator MITCHELL. Well, proceed.

Mr. DOLE. Well, I was on the appropriation bill, wasn't I?

Senator BURTON. Do men and women live together who are not married?

Mr. DOLE. Well, I can not answer that. Presumably not.

Senator BURTON. You are on the board of health; that is under your jurisdiction.

Mr. DOLE. It is not permitted.

Senator FOSTER. It is a violation of the rules?

Mr. DOLE. A violation of the rules.

Senator BURTON. Theoretically or practically not permitted?

Mr. DOLE. Both.

Senator BURTON. Then it doesn't exist?

Mr. DOLE. I can't say in regard to that. The board of health can not and does not enter into an investigation. If, for instance, supposing a man and a woman were living together here in Honolulu and have lived together here for twenty years as husband and wife, and suppose one of them becomes a leper and is in such a condition that the other is permitted to come as kokua, I don't suppose under these circumstances the board of health would hunt up the records of marriage. Very probably would not know where to find them. To be perfectly frank with the Commission, that has always been the custom, to some extent, for Hawaiians to live together without being actually married, but with all the ties in other ways, faithful to each other to death, just the same as if they were married; and where that condition of things exists, as it does to some extent—I can't say to

what extent—I don't suppose the board of health would go back twenty years to find out whether the marriage ceremony had been performed.

Senator BURTON. Mr. Dole, didn't you, don't you think it would be wiser to separate the men and women in that leper settlement; have them kept separate?

Mr. DOLE. No; I don't. It is a question. There are two sides to it. These people —

Senator BURTON. That would eventually stamp out leprosy?

Mr. DOLE. Yes.

Senator BURTON. Is that not of greater consequence than any other one thing?

Mr. DOLE. I want to say this. These people—there is no where else on earth—and leprosy exists everywhere, every continent, every island where there are any number of people—where lepers are segregated, so far as I know, as severely as they are here. These people are taken from their homes. It is the duty of my department to render to the board of health every assistance in its power to find lepers and to transport them. They are taken away from their friends, relatives, associates, and put there on that little triangle. It is a beautiful spot, but shut off from everything on earth, with precipices on one side from 1,500 to 4,000 or 5,000 feet high, and are there without seeing anybody coming and going. Now, it is not for any crime, and while it might tend to stamp out leprosy, I would be slow to give my vote for a thing which would take the least bit of pleasure from the lives of those poor people. Then, I am not a doctor, but I can have my own opinion. Why, the doctors say they don't know anything about it; leprosy is so treacherous and so unaccounted for that I would want to have something more than theory before I deprived those people of the pleasures of home. They do not have very much to make life happy. As I understand, the mother and father may be lepers and then have a large family of children and it never appear again. And then men who are lepers may live with nonlepers and the nonleper never get leprosy.

Senator FOSTER. Doesn't it in future generations crop out?

Mr. DOLE. Senator Foster, Mr. Smith knows a great deal more about it than I do. My theory is—I don't know anything about it except as I hear the doctors talk about it, and use my own judgment—leprosy may be to some extent incurred in the beginning from venereal diseases; that it comes by contact.

When I was at the leper settlement a few months ago there were 867 lepers. That is the smallest number for a good many years. Now, of those nearly 900 people, 7 were of the Caucasian race, Northern European, leaving out Latin races, American, British, and German, etc.—only 7. Seven were Portuguese. There were 147 persons at the most, out of almost 900 people, who were not Hawaiians; two or three Chinese and one or two Japanese and a few South Sea Islanders, who are Polynesian, actually the same as Hawaiians. About 96 or 97 per cent of the people there are of the Hawaiian race, and I consider the Hawaiians are only about 25 per cent of the population—only about 25 per cent of the population.

Senator FOSTER. Of the islands?

Mr. DOLE. Yes. I don't believe that segregation would be necessary if it were not for that. The Hawaiians eat out of the same poi bowl with their fingers; they are constantly kissing each other; they do all of these things, and they do it more promiscuously than other

nationalities. They are very wanting in taking care to prevent that sort of thing.

Senator BURTON. Now, Mr. Attorney-General, if there is to be any truth gathered from your statements it is that arrangements could not be made there which would permit, or promote rather, happiness without permitting the sexes to mingle and hold intercourse in the ordinary way of the propagation of the species.

Mr. DOLE. I don't think there are many children born there. There are some. How many I can not say. I have not the statistics at all.

Senator BURTON. Don't you think that the sexes could be kept apart in such a way as to prevent the birth of children without very materially destroying their happiness or detracting from the pleasures of life?

Mr. DOLE. I think nature is the same with them as with other people.

Senator BURTON. Do you believe that human nature produces most happiness in that way; is that your philosophy?

Mr. DOLE. I think it is very hard on those people to be shut up there in that way, and I think the community is bound to do everything in its power that is reasonable to make these people happy and keep them from absolutely being cut off from every human tie.

Senator BURTON. Would you say they would be shut off from every human tie to have the women there and the men near by, but not mix with them in such a way as to propagate?

Mr. DOLE. I should have to have a thousand men additional in my department to enforce any such regulation as that, and I don't know what could be done to guard them.

Senator BURTON. Well, you believe that they should be left together?

Mr. DOLE. My belief is this: Anywhere else on earth where they have lepers there is no such severe segregation as here. There is no segregation elsewhere. I believe we have gone far enough. We have gone further than any other people. The claims of humanity would come in to prevent me from going any further.

Senator BURTON. Don't you think that for the small number of people there are who are infected with this malady that in the interests of humanity, as well as in the interests of good morals, would make it better that there should not be children born there?

Mr. DOLE. Undoubtedly it would make it better, but the remedy is too severe.

Senator BURTON. You would take the risk, then, of allowing leprosy to remain rather than to impose terms of that kind to stamp it out?

Mr. DOLE. It has not been done anywhere else on earth.

Senator BURTON. You have insisted on that. You have only a few here in the settlement, but the proportion to the few inhabitants is immense. We have 80,000,000 of people and about 300 cases of leprosy.

Mr. DOLE. Senator, I doubt that statement.

Senator BURTON. But the best authorities are better posted than you are, Mr. Attorney-General.

Mr. DOLE. I would say this: I don't doubt that those are the statistics, not at all. There is not one doctor in the United States that knows anything about leprosy. The chances are that a man might have leprosy, it might be scattered all around the United States, and the chances would be that no more than one would be reported as a leper and get into the statistics.

Senator BURTON. But it could not be very prevalent?

Mr. DOLE. No.

Senator BURTON. We have 80,000,000 of people with less than 300 cases. It could not be prevalent. In the United States there is no doubt the men and women would be kept separate. I could not speak whether we would be right or not, but I am sure that they would not be living mixed together; but it may be wise for it to be done here.

Mr. DOLE. It is not for me to determine. If you go there and see these people, as I have done, the wretchedness of their condition—

Senator BURTON. But suppose you give them every pleasure; suppose it costs five or six times, ten times, as much; give them every accommodation; deprive them only of this single pleasure of cohabitation; do you mean to say that this single pleasure would overbalance all the benefits of life that people infected with this malady could have? Would it not be better for the human race to deprive them of this one thing?

Mr. DOLE. It might be; but the remedy is pretty severe.

Senator BURTON. Of course, we may have different opinions.

Mr. DOLE. You say they would soon adjust themselves. The Hawaiians are a kindly, simple people, childlike, and if it were not for that they would not endure the separation as they do. I don't think they feel things as long as some races. But it is a heart-rending thing to do—to take them from relatives and friends. I can not help having a great deal of sympathy for them.

Senator BURTON. No question but what we all, every right-thinking man, would have sympathy. One has sympathy for a lame man, sympathy for a thief. It is simply a sympathy of greater degree for this incurable malady.

Mr. DOLE. I am at a disadvantage in not being a doctor, but I understand that the children of lepers may go on for years and it won't appear again.

Senator FOSTER. Then it may crop out after several generations?

Mr. DOLE. If the children of leprous parents were always or usually lepers, then I would agree with your idea.

Senator BURTON. If like produces like, that is a rule—that is a truth instead of a rule—.

Mr. DOLE. Diseases are not always inherited. Some diseases are not inherited.

Senator BURTON. We can't see always, but if it is true that like produces like, a malady of that kind is very dangerous to allow children to be born. It seems to me we have your idea.

Senator MITCHELL. Can you tell about how many children are annually taken away from that institution and deposited around among the people?

Mr. DOLE. I can not.

Senator MITCHELL. Can you approximate?

Mr. DOLE. I wouldn't dare to.

Mr. W. O. SMITH. You are a little mistaken. Only the girls have a home, that is Kapiolani home. All the children are not taken away. There is no place to take little boys. Leprous women are generally sterile. There are very few children born of leprous parents. Almost none are born where both parents are lepers. If both parents have leprosy it is extremely rare that a child will have leprosy on its person if it is taken away within a year. The girls are taken away and have been for the last thirty years. They have had the same experience in Trinidad. Very few children are born of leprous parents.

The question of what to do with the marriage relations has been a difficult question since the establishment of the settlement in 1864.

Senator MITCHELL. It was 1864 it was established?

Mr. W. O. SMITH. In 1864, when the leper settlement at Molokai was established. It was in the early fifties that leprosy first began to appear here. The first case I saw was in 1857. By 1861 it was more prevalent. In 1864 the leper settlement was established and these people taken there. It was a very difficult matter and a very hard matter to deal with, this matter of the marriage relations. There were so many cases where the wife was taken away from the husband, the husband from the wife, little children taken away from their parents. There are two institutions established there—one home for the girls' where they are presided over and cared for by Catholic sisters from Syracuse, N. Y. The home for boys is presided over by Brother Dutton, and he is assisted by lay brothers from Belgium. The cottage system of home life was the plan it was thought best to adopt. Experience has proved it to be the best. As I say, there are very few children born to leprous parents, and it is almost unknown for a child born of leprous parents to be born with leprosy, and if they are taken away before they are inoculated it is extremely rare for a child to develop leprosy. The question of inheritance is a vexed question. The matter of the degree of contagion of lepers is a matter where there is a great difference of opinion. The British Government sent a commission to India some years ago. They reported back against segregation. That was never considered a fair report because of the enormous magnitude of segregating 120,000 lepers with the casts in India and with their conditions there. It was probably a practical consideration that led them to bring in their decision.

Leprosy is not very contagious. I doubt if it is any more contagious than scrofula or erysipelas among people who are careful. Less than one-tenth of the lepers are Anglo-Saxon or Caucasian. The matter of the marriage relations there, as I said before, and the association of the sexes has been a question of extreme difficulty and one hard to deal with. I would say first, for a great many years there was great opposition to the enforcement of the law of segregation because it tore families up and was a terrible thing, and they have tried as far as they can. The resident lay brothers, the Catholic mission priest, the Protestant mission ministers, the schools, have all done all in their power to try to have good morals in the place, and in the main they live properly. The Hawaiians in many respects look upon certain of the family relations differently from what we do.

Senator MITCHELL. Now, Mr. Attorney-General—

Mr. DOLE. Well, I was still on the appropriation. Now, the appropriation under act 3 for the support of the board of health was \$194,766. That was under act 3. The appropriation under act 4 is \$436,277.86.

Senator BURTON. What is that for?

Mr. DOLE. It is for general expenses, disinfectants, medical supplies, support of nonleprous children, insane asylum, etc.

Now, to go back. I was questioned when coming on the stand if I was an appointee of the governor, and Judge Humphreys calls attention to the fact that I am a relative of his. I wish to be as impersonal as possible. Some years ago, when there was a vacancy on the first circuit bench, every member of the cabinet, as I was informed, urged the president to appoint me. The members of the supreme court, the whole of them, as I understand, went over to the president with the

same request. The representative men of the bar, without its being promoted at all, so far as I knew, most of them either spoke to the president or wrote to him personally asking him not to let relationship stand in the way of what they believed to be for the public good. President Dole's answer was, "I will not appoint a relative." When W. O. Smith retired as attorney-general, Mr. Cooper, then minister of foreign affairs, urged that the time had come when relationship should not stand in the way, and, as I understand, there was pressure brought to bear on President Dole. His answer was, "I will not appoint a relative," when Mr. Cooper resigned as minister of foreign affairs and was appointed attorney-general.

The day before the Territorial act went into effect President Dole said to me—I can quote his words pretty much as he said them—he said, "Ned, I have made up my mind not to let relationship stand in the way of what I believe for the public good. Will you be attorney-general?" I said, "Yes, upon one condition—that I won't be expected to be president of the board of health." The president of the board of health, on account of the attorney-general being paid as attorney-general, had been usually filled by him. I don't believe in that policy. When it was tendered me I declined. So much for anything in the nature of relationship.

As to the suggestion that Governor Dole and I run the administration, I don't think any man has ever spoken his mind more freely than I have. Sometimes he comes over and sometimes he doesn't.

In regard to the incidentals, I think I have stated enough when I say that under existing conditions these appropriations are necessary. Prior to the taking effect of the organic act there was no grand jury system. The grand jury system has been newly initiated. All new things will prolong the labors. The legislation recommended for reducing what were misdemeanors within the Constitution of the United States, so that petty offenses could be tried by a district magistrate and then tried by a jury on appeal, was, in the main, not passed. The result is that if a boy steals an alligator pear they have either got to let him off without prosecution or bring him up before the grand jury. If a man steals a dollar—puts his hand in the till and takes out a handful of silver—either he must be let off without prosecution or the matter has got to come up before the grand jury, and the time of the grand jury is taken up with these petty offenses, which ought not to be in their province. Not only were the expenses of the judiciary called upon—and that is the reason the judiciary is now in trouble for lack of funds—but also there was an enormous drain on my department. Before that all that expense was not in existence. If a witness is sent for, if a broom is bought, if I have occasion to go to the other islands on official business, all that sort of thing comes out of the incidental fund. Whenever I have gone out as attorney-general, as the planters are very hospitable here, they have asked me to stay with them. There is only one planter's house I have ever stayed at. He is a close personal friend. I told him I could not stay at his house when I was there on business unless he would let me stay just as I would at a hotel. There are other places where they won't take me on that ground. They say they would be ashamed to take money. They never have done it. Then I said, "I can't stay with you." The idea is to deal with the planters just as I would deal with anybody else. There are no deadheads on the steamers. That is as it should be. We ask no favors and pay our bills. I wish to speak about the contract-labor law that has been spoken

of. In the Honomuu Sugar Case (12 Hawaiian, 96) Judge Humphreys referred to the matter. The statement was correct. The supreme court of the republic held that the thirteenth amendment of the Constitution of the United States was not extended here by annexation. The question of whether the fifth and sixth amendments of the Constitution of the United States were extended here has been thrashed out in all the courts of record and is now pending before the Supreme Court of the United States. The supreme court of the republic of Hawaii held unanimously—have just held in *Republic v. Edmunds*—that the fifth and sixth amendments were not extended by annexation, and the question is pending before the Supreme Court of the United States. Whether those amendments have been extended to insular possessions is uncertain. It would seem that five of the judges of the Supreme Court thought that they had not and four that they had. But all the judges of the Supreme Court of the United States in the insular case of *Downs v. Bidwell* (183 U. S.) held that the thirteenth amendment goes with the flag.

The supreme court, in the Honomuu sugar case, made a decision that was bad law, but the fight had been over the fifth and sixth amendments, and I take it that they inadvertently omitted the consideration of the thirteenth amendment. Whether or not that is so, the decision is unquestionably bad law.

These two articles are from the constitution of 1852. In 1840 Kamehameha III gave voluntarily the people of these islands a constitution which granted the elementary rights of life, liberty, and the pursuit of happiness.

This was not wrested from him as was the Magna Charta from John. It was given voluntarily, as a royal gift. In 1852 a new constitution of more elaborate character was enacted by the King and by the legislature. Now these are the first and twelfth articles of that constitution of 1852:

ART. I. God hath created all men free and equal, and endowed them with certain inalienable rights, among which are life and liberty, the right of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.

ART. XII. Slavery shall, under no circumstances whatever, be tolerated in the Hawaiian Islands; whenever a slave shall enter Hawaiian territory he shall be free; no person who imports a slave or slaves into the King's dominions shall ever enjoy any civil or political rights in this realm; but involuntary servitude for the punishment of crime is allowable according to law.

That was passed fifty years ago this year. Now the mistake the supreme court made was in not coming right out and confessing the constitution and saying there was no slavery. I will not advocate slavery here, but I will say this, that the contract labor is in substance the shipping laws of the United States to-day. The only difference between the contract-labor system and our mercantile marine is that in one case the contracts for labor and the penalties for refusing to fulfill the labor contract are on the land, and in the other they are on the sea, and that the Federal punishments for violation of contracts are more severe than they are here. If the contract-labor system is slavery, then the laws for American marine constitute slavery. I am not here to defend the planters; I am not here to defend anybody, not even myself. I want to answer any questions I can as candidly as possible. I think the contract-labor system was not ideal, but it was not slavery; and I don't know as it was any worse than the factory system of American manufacturing towns. It was engaged in by people who had been supposed to have the privi-

leges that Americans have, and who improved their situation by coming here. I believe in being just to what has gone before.

Judge Humphreys spoke of persons who have lived here for twenty, thirty, and forty years, and who have great interests here, who have never been citizens. That is a remarkable thing. The statement, so far as it goes, is undoubtedly correct. Of course, I can not say that every one of these men mentioned are not citizens, but I have no doubt that his statement is correct in every case. We had here, up to the time of annexation, what was known as denization. Fifty-five years ago a young lawyer, with the highest recommendations from Lee and Mr. Justice Story, came here, passing through. Here was a people, a little Polynesian nation, off in the Pacific, that was groping its way up to Anglo-Saxon civilization. At that time Kamehameha III was King. I do not believe that any dark-skinned race in history has ever produced so great a dynasty and so public-spirited and noble a dynasty as the Kamehameha dynasty. Kamehameha I, Kamehameha III, Kamehameha IV, and Kamehameha V were all men—the first a great man—all of them men who sincerely, from different points of view, studied the public good, and Kamehameha III was trying to build his people up into Anglo-Saxon civilization. He asked this man to be chief justice. To some extent he filled the place in Hawaiian jurisprudence as John Marshall (an abler man, of course).

From early times, under our law of denization, a man, without being a citizen, could be a minister, chief justice, or anything except an elective office. Since I have been here a British subject has been a judge in a court of record, and European subjects and American citizens have been in the cabinet. It was a system of denization by which a man was, so to speak, a citizen, with most of the rights of a citizen for the time being, without renouncing allegiance to his flag and his country. That is the only way that the people here in the last forty or fifty years could have had the men of high character and high attainments that they have had in public affairs, because a man who was a subject of Great Britain or a citizen of the United States would not renounce his flag and right of protection to become a citizen of this little Polynesian monarchy, that might be dependent on any other nation at any time. So, after a man had stayed here he was practically a citizen. So far as Judge Humphrey's statement went it was perfectly true, but he did not mention these conditions which explain the fact.

In regard to the lease of which Judge Humphrey spoke, I have not looked into this particular lease, but many of the leases we have made a long time ago for very small sums, for the property was of small value at the time. I know this. In the leases which the government has given since the overthrow the rights of the government—we have tried to look after the rights of the government as honestly and as carefully as if they were leases of private property. The leases for agricultural purposes, grazing, for business purposes have to be sold at public auction. That lease may have been made twenty years ago. I do not know whether it was or not. If it was made recently and for less than its value it was a slip which everybody makes sometimes.

Senator BURTON. What lease?

Mr. DOLE. Spencer's, for \$50 a year.

Senator BURTON. That is right here in town?

Mr. DOLE. Yes; I don't know when the lease was made.

Senator BURTON. There is nothing to hinder you from knowing; you know the rental for that property.

Mr. DOLE. I don't know when the lease was made.

Senator BURTON. The report of Secretary Cooper says it is a tenancy at will, at an annual rental of \$50; it was made lately.

Mr. DOLE. Well, I have nothing more to say; I supposed it was made a long time ago.

Senator BURTON. What would you call tenancy at will at an annual rental?

Mr. DOLE. I don't know how much the property is worth. I don't know how many thousands of dollars he spent on it. I don't know what the conditions were, but they were all looked into in every case.

Senator BURTON. Do you believe that the government should hold public lands here; that it ought to remain in the business of leasing them, or do you think a plan should be adopted as speedily as possible to pass the ownership of the public lands into the hands of individuals, so that the government may go out of the public lands business?

Mr. DOLE. I think—my opinion on that differs from the governor. I think the governor is in favor of holding these lands as a source of public revenue.

I think these lands should pass to men with families who would have small holdings. The governor is very earnestly in favor of that. I don't believe, as I said in the beginning, that shocks or sudden changes are best. That doesn't hold anybody. The change should be gradual, and so far as it can be done, without injuring private or public interests, that the lands should be converted into fees held by individuals. I think it would add to the stable character of the country.

I was about to speak of the water right which Judge Humphreys—

Mr. W. O. SMITH. Let me question. Is it not a fact that in all of the government leases since the land law of 1895, and is it not the common practice to have a reservation in all of these leases, that the government has the right, has an option on any lands it wishes to take as homesteads?

Mr. DOLE. It is not only very common, but it is the rule.

Senator BURTON. Don't you think it would be a better policy for the government not to be engaged in the business of any kind, especially the land business?

Mr. DOLE. I think as you evidently do about it. I should prefer to have the land held by individuals.

About this water right—the McBryde plantation. Now, it is not my department. I may get things a little mixed. I will tell it as well as I can. The McBryde plantation which was spoken of is divided like that. Here is a part and here is a part. Here is a large area, some thousands of acres, which would be of value if water could be had on it. The McBryde plantation has some water here (on one of its pieces) which it wants to get over here (to the other). Now, one of the stockholders of the McBryde plantation gave certain reservoir sites, describing them by metes and bounds, with the right of the McBryde plantation to have its own water and storm waters from here to there (one of its pieces to the other) and hold it for storage down here (the piece between), but expressly prohibited it from taking a drop of the natural water on land. They had the right of way also for ditches. The government thought that it would encourage the settling up of this land by small farmers where there is nothing now. That is, as I understand it, the abuse of which Judge Humphreys spoke to you.

Senator FOSTER. Before we get too far away from it, will you look up the matter of the Spencer lease?

Mr. DOLE. Yes; I will find out about it.

Now, in regard to schools. When Mr. Hitt was here—I remember he was talking one day—he said, “The people out here are education mad.” That was sixty-one years ago that an act was passed by the first Hawaiian legislature that no man or woman born since the time of Liholiho—that is, Kamehameah II—should be married unless he or she could read and write, and parents who did not send their children to school were subjected to the old feudal system of taxation instead of taxation according to the new laws. For years here education has been compulsory. Every child of every race is required by law to go either to a public or private school from the time he or she is 7 until 14. The law is pretty generally enforced, I think.

Senator MITCHELL. What are its provisions for penalties?

Mr. DOLE. Well, the parents are prosecuted, and if the children do not go there is a truant officer out after them.

Senator MITCHELL. He brings them in?

Mr. DOLE. Yes. Whether that is a wise law or not, I do not know whether the blessings of barbarism are better than the blessings of civilization. It is a question. Anyway, we have civilization and compulsory education. All races are educated in the same schools. There has been in the past here no race feeling. Chinese boys have graduated from higher institutions here with honor. Natives are attending all the schools and all races intermingle. If you go into the schools here you will find the school system substantially that of New England.

Senator MITCHELL. What do the statistics show on the subject of illiteracy in the islands?

Mr. DOLE. I can not give you that. In the Hawaiian race it is much smaller than the average percentage in the United States.

Senator MITCHELL. It is?

Mr. DOLE. Very much. In regard to the schools, of course you will find a good many men here and more women among the Hawaiians who can not read and write the English language. You will hardly ever find a Hawaiian that can not read and write their own language. I presume on the islands where there is an exclusively native population and no white people the schools are taught in native. I don't know, but I presume it is so. I presume here and there in a secluded valley the schools are taught in native, but the English is taught as far as is possible, and with these small exceptions taught altogether.

Senator FOSTER. The children are tractable and stand discipline?

Mr. DOLE. Yes; I think they are.

I want to speak about the act to mitigate. This act to mitigate was passed forty-one years ago. At that time these islands were the great rendezvous of the North Pacific whaling ships. There were sometimes through the winter a hundred or two whaling ships in Honolulu Harbor and a like number at Lahaina Harbor. Diseases were brought here with Captain Cooke's first discovery, which had been wasting the people ever since. These were greatly aggravated by this condition. The preamble to the act to mitigate, which has been changed in some minor details, but for all practical purposes is as it was when it was passed forty-one years ago, recited the reasons for passing this act:

Whereas the evils and diseases arising from prostitution are widespread and apparent, carrying death to thousands of the Hawaiian race and preventing the

increase of the population, and it being impossible to suppress and crush out prostitution, but that its evils and diseases may be combatted, circumscribed, and diminished.

The whaling fleet passed out of existence with the American civil war. The Chinaman came and later the Jap. This was a seaport and the ships of all nations were here, and the male population was vastly in excess of the female population. The act to mitigate remained on the statute books. There were missionaries against the repealing of it, and the general consensus of opinion seemed to be that it could not be repealed without making the evil worse than it was. Before the fire of January 20, 1900, the administration of the law in keeping these quarters was, I believe, honest. I know that Sheriff Brown, if I know anything—I know that Sheriff Brown and Mr. Chillingsworth as deputy are both honest, fearless men, conscientious men, who try to do their duty. I know that members of the board of health were honest, conscientious citizens, serving the public without pay. I know the administration of the act, so far as those responsible for it, was honest, and clean, and pure. Powahi street down here was the quarter. When you sewer a town the filth of the sewer concentrates somewhere and it is revolting to everybody. Now, if prostitution is a sewer, if it is segregated and set by itself where everybody can see it who wants to see it—and it is vile enough—it looks like there is more filth when it is concentrated and segregated, but the town is sewered. There was a movement on foot to abolish Powahi street; that is, for the purposes for which it was run. The facts were gathered and presented to Mr. Cooper, then attorney-general. Some of the most influential church people, some of the clergymen, Judge Humphreys (I do not mention him as one of the clergymen), were in favor of it. It was discussed very freely, and the consensus of opinion seemed to be that prostitution in a town situated as we are, with our seaports and all that—could not stamp it out. The Rev. Mr. Parkhurst, of this city, and Mr. Richards, advocated the building of a stockade and having these women segregated by themselves, as at Iwilei. This discussion was going on in the press and by the public, and then there came the plague and the big fire of January 20 and Powahi street was destroyed. The stockade was built as at Iwilei. It was where no one could see it, except those who went there for that purpose. It was guarded by the police. It was under the regulations of which Judge Humphreys has spoken. It was presumed to be in accordance with this act, in order to carry out this act. There was, before that stockade was established, before the fire—there was on one occasion a complaint made by a prostitute, I don't know whether by more than one prostitute, that a minor official of the board of health that had these examinations in charge there, that a minor official of the board of health had taken money. I don't know what investigation was made. It was to be investigated. I don't know whether they were able to show anything but the statement that they were charged \$2.50. If that was done, it was done contrary to the law of the Territory and without the instructions of any responsible official.

After the Iwilei stockade was established and since I have been a member of the board of health as attorney-general it was discovered that another—this other man that I referred to died shortly after and his son was put in his place—and it was discovered that he had been taking money from these prostitutes, and he stayed in the service of the board of health after that just long enough to discharge him. Those are the only instances like that, respecting members accepting

money or compensation for examination that have ever come to my knowledge.

Now, I believe that until the organic act took effect that this institution upon which public opinion is so divided—I am an honest, clean man myself—I believe that it was essential by the act to mitigate, and that it was not the business of the board of health or the government to push the question whether it was right or wrong. It was a sanitary measure established by law. As soon as the Edmunds Act or very shortly after the Edmunds Act was called to my attention, as soon as it was put to me whether that was legal or illegal, I advised the government that in my opinion the Edmunds Act cut the act to mitigate as soap cuts grease; that whether it was for the public interest or not the stockade at Iwilei must go. That announcement was made to a committee of clergymen and others, what I said about it. The morning that these injunction proceedings had begun (Judge Humphreys said it was in consequence of these injunction proceedings, but we did not know that the proceedings had begun or that they were to be begun), as I remember it, the heads of the departments were all there in consultation and this committee of clergymen and others. While the legislature was in session there was a petition from the society representing Hawaiian women asking that the act to mitigate be not repealed; that it meant, as they put it, it meant the extinction of the Hawaiian race. When the matter was before the governor and his advisors, the clerical committee came to me to express my mind. I expressed my mind that there was only one thing to do, whether one felt one way or the other about it. I told the Rev. Mr. Kincade I considered it impossible to go on in the face of the Edmunds Act. Said I, "In doing this, in voting to abolish that stockade—it is the law and has got to be done—I feel as though I were giving my vote for the extinction of the Hawaiian race." I don't believe in prostitution; I have lived a clean life myself, but we are facing conditions here on the Pacific with an alien population larger than the natives, with a male population in the main soldiers, sailors, and everybody else.

The first time that I knew that Judge Humphreys's resignation had anything to do with the present movement on foot was when Judge Humphreys stated it here the other day.

With regard to the act to mitigate, I was a member of that committee, and it didn't take notice of the time of Judge Humphreys's resignation, for that had nothing to do with it; but the questions are these: I was chairman of the committee which was constituted of the president of the board of health, Dr. Moore, and myself. The medical men representing the board of health made a general inquiry of physicians, and the consensus of opinion seemed to be that since the abolition of Iwilei venereal diseases have more than doubled in Honolulu, and that the present time needed some mitigation of this, the inflicting of disease upon innocent women and children, and that the community is faced with a terrible condition of things. The promise which I made that the laws against prostitution should be enforced, that promise I believe High Sheriff Brown and his assistants have kept. This is all I can do. These women are raided again and again. The result is instead of being examined they inflict disease on the community, and from there it goes into the families. The committee was appointed in consequence of that state of affairs.

Mr. W. O. SMITH. How long ago?

Mr. DOLE. Two or three weeks ago. My position was this—that we were bound by the laws of the United States and the Edmunds

Act, that we could not as an official body give our consent to anything in conflict with the laws of the United States. Then it was suggested that a conference be had with Judge Estee and with the United States district attorney. They might give us some light as to how the ravages of disease could be stopped consistently with law. And Sheriff Brown and I had an interview with Judge Estee and with the United States district attorney, Breckons, with a view of doing that. I said I did not see what we could do. There was the Edmunds Act. It had got to be obeyed in letter and in spirit, but if that act gives any light whereby consistently with our duty and the law we could do something to stop the ravages of disease I wanted to do it. And that is the inside and the whole truth in regard to the statement that Judge Estee was applied to to give his consent for us to disobey the laws of the United States. There is not a word of truth in it.

Senator MITCHELL. When was this charge of Judge Estee to the grand jury?

Mr. DOLE. It was long, long ago. This took place within two or three weeks.

As I understand the Edmunds Act, we can do nothing. If the women are required to be registered to have periodical examinations, there is no possible way to enforce that without giving them to understand that they will not be prosecuted. Now, we can not do that under the Edmunds Act.

Senator FOSTER. You have no remedy for it?

Mr. DOLE. The only remedy is up to the physicians. It is not up to the Attorney-General.

Senator FOSTER. No legal remedy?

Mr. DOLE. In regard to slavery in Iwilei, I will say this, that the most strenuous efforts have been made both by the Territorial authorities and by the United States authorities and by philanthropic private enterprise to get evidence, and any evidence that could be brought was used, but the difficulty of getting evidence of that kind from Japanese is great. There is no law authorizing slavery. The difficulty of getting evidence of that kind is almost insurmountable. The Japanese women, according to the custom of the Japanese, I suppose, are probably under masters. Cases have cropped up. One case cropped up some three or four years ago, where a Japanese—two Japanese—wanted wives, and one Japanese gave his note for \$40 to pay for her, and was very much surprised to find he could not sue in court for that note. Another case, another Japanese, where two Japanese swapped wives and something to boot—a cow. To get at those things with evidence you can take into court is very difficult, and you will understand it all the more when you see more of the Japanese character. The worst specimens are engaged in that. Nothing in the nature of slavery has been tolerated at any time, either by the Federal or the Territorial officials.

I wish to speak of government physicians. There has been for many years here a system of government physicians. They are appointed by the board of health, and it is their duty to do the local government work; it is their plain duty to attend to poor persons in their district who can not pay. Ordinarily, in the country districts, a government physician will draw a salary from \$100 a month down, according to the kind of work he has to do. Some only get \$25. Many of them also draw a salary, if it is a plantation section, from the surrounding plantations—one or more. They give him a salary. He also has the business of private patients, and between all three sources he makes

a living. Now, if it were not for these government physicians—if it were not for this system of government physicians—the poor people in sparsely settled districts would be without medical attendance. That is the substance of the system of government physicians. In the States they would be paid for by private charity or by local taxation, or something of that kind.

Senator MITCHELL. When was your last report made?

Mr. DOLE. My report was made on the 31st day of June—on the 31st day of July. I made it early in June. It was to the governor.

Senator MITCHELL. The last?

Mr. DOLE. Yes.

Senator MITCHELL. That covered what time?

Mr. DOLE. That covered a year.

Senator MITCHELL. One year?

Mr. DOLE. One year.

Senator MITCHELL. Then your report to the session is a biennial report?

Mr. DOLE. This is biennial, in addition to the report to the governor.

Senator MITCHELL. When was it that you made the last report?

Mr. DOLE. The last report was made one year and a half ago—the last report to the legislature.

Senator MITCHELL. Can you furnish the committee with a report?

Mr. DOLE. I can not furnish the last one to the governor. It is in the hands of the printers.

Senator MITCHELL. Will you forward a copy to the committee?

Mr. DOLE. I will be very happy to do so.

Senator MITCHELL. Let us have a copy of the biennial report now.

Mr. DOLE. Certainly.

In regard to Judge Humphreys's statement about the physician at the leper settlement. Two or three months ago a leper died there, as was reported, under circumstances of shocking neglect. The matter was brought to the attention of the board of health. A committee was appointed to go to Molikai and investigate the matter. That committee consisted of myself, as chairman, Dr. Moore, and Dr. Pratt. We went there and made a thorough investigation of all the circumstances connected with it. We were satisfied that the captain of police, a native, was afflicted with jealousy, otherwise a conscientious officer. We were satisfied that the superintendent of the leper settlement, who was an honest, industrious man, as I believe, attending to his duties there, generally speaking, was greatly wanting in tact and good judgment, and that on this occasion he was most lamentably wanting in good sense. We were satisfied that the medical officer of the settlement not only neglected his duties on this occasion but had habitually done so.

I wish to speak as kindly of him as I can, because since that he has died. The majority recommended the discharge of the superintendent. There was a minority report recommending his censure and retention. I believed that he should be dismissed. There was a unanimous report recommending the dismissal of the government physician. It was felt that his neglect on this occasion had been so great, and that he had so neglected his duties in attending to these people, that his dismissal should take place at once. A new superintendent was appointed, and the question came of getting a new doctor. It was felt by the board of health that the salary of \$250 a month, with a comfortable house and rations, would compensate a

young man, a youngish man, a scholar, an investigator, a thinker, who would have an opportunity to do there for civilization and humanity something that does not exist anywhere else in the world. This was a place of all places in the world for a man to rise to the situation and be the world's expert on leprosy, to make a name for himself. We felt that if we could take time enough we could get a man of that caliber. I was not on that committee. It was a medical committee, but I know that the leading medical institutions in the United States were written to to see if we could not get that kind of a man. In the meantime we had to put someone in temporarily. We could not take a married man there. That is not practicable. We could not take a single man there who has any standing in his profession. It was absolutely impossible to get anyone for a short time, or so it seemed. The doctor which we finally put there is a man who had a European education. He was the only available man, and as a temporary makeshift we knew we could not do better.

We thought he would behave himself for the few weeks he was there and I don't think his reputation was anything like as bad as Judge Humphreys represents it. We thought it was the best thing we could do for the time being and we were trying to get such a man as has never been there. As soon as the circumstances were made known which Judge Humphreys spoke of, it is one thing to have knowledge and another thing to prosecute, for we could not bring up the lepers as witnesses. Since his dismissal we have appointed a young man of high character—a single man. He has been sent to us by a college with testimonials that he is, not one of the first scientists or anything of that sort, but that he is an earnest student of ability. We have done the best we could with the material at hand.

Senator BURTON. Do you give bond for your office here—for the faithful discharge of your office?

Mr. DOLE. I do not.

Senator BURTON. Does the Territorial treasurer give bond?

Mr. DOLE. Yes, sir.

Senator BURTON. In what amount?

Mr. DOLE. I have forgotten. I don't have any money of the Territory come into my hands.

Senator FOSTER. All public officers that handle money of the Territory give bonds?

Mr. DOLE. I think so; yes.

Senator FOSTER. Sufficient bond?

Mr. DOLE. Well, I don't know whether it is sufficient or not. They might not be sufficient if they were allowed to go too long—might not be.

LORRIN ANDREWS, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. ANDREWS. My name is Lorrin Andrews. I am 32 years old. I am an attorney and counselor at law in Honolulu.

Senator MITCHELL. Do you reside here?

Mr. ANDREWS. Yes.

I want to say, gentlemen, in opening this matter, that the gentleman who had intended to present this matter to the commission was called away to one of the other islands on law business. I am associated with him in business. He laid the matter before me to present as well as I could.

Senator MITCHELL. What is the specific question?

Mr. ANDREWS. It is the question in regard to public lands, and the situation of our Portuguese inhabitants on the slopes of Punchbowl in regard to these lands; the question as to whether in any way can they protect the homesteads now leased in such a way that they can get the fee or by purchase in some way from the Government.

I will be very brief, if the commission pleases. About the slopes of Punchbowl—I presume the commission is familiar with Punchbowl, the extinct crater in the center of our city—this land on the slopes was what is known as crown land, and has been leased out for long periods of time. About twenty-two years ago Queen Kapiolani, the wife of King Kalakaua, these lands were by her leased to Portuguese. At that time the land was excessively barren.

Senator MITCHELL. Small leases?

Mr. ANDREWS. Yes. Nobody cared for the land, which was neglected, barren, and smooth as rocks. The Portuguese came here, settled here, became small farmers. Within the last twenty-two years there have been a great number of these leases, all of which will expire in 1913. The land will go back to the Government and the Portuguese will have to leave the land. There are thousands of them.

Senator MITCHELL. You say thousands of them?

Mr. ANDREWS. Fully a thousand leases, are there not? About 500 leases.

Senator MITCHELL. All within the city limits?

Mr. ANDREWS. Yes, all within a portion of Punchbowl slopes. These Portuguese lived here as I say, built up little houses, and made that portion, if you, gentlemen, have passed through it, bloom like a garden. They are the best agriculturists we have. The younger generations have become American citizens. The older, through possible defects in education, have not, some of them.

This is the situation: In 1913 these leases expire and the land goes back to the Government. Under the leases, which are extremely harsh, not only does the fee but everything connected with it go back. The leases are in three classes. I would be very glad to file leases, one of each class.

Senator MITCHELL. We would like to have copies of each kind of lease.

Mr. ANDREWS. Thanking you, I hope that the result to these people will be favorable. The land is excessively valuable, made so by their exertions. They are poor people. They would not be able to bid for public lands in the open market.

Senator MITCHELL. Have they built homes?

Mr. ANDREWS. All have provided homes, little cottages. They are all small. These people belong to the poorer laboring classes. They had felt this, in the unsettled condition, that if the commission or the United States Congress could see any way to help them by giving them an option on the little homes or let them have first choice in buying the lands, or in some way provide that certain laborers could obtain their lands.

Senator MITCHELL. You recommend action before the expiration of the leases?

Mr. ANDREWS. Yes.

Senator BURTON. You say you are a member of a law firm?

Mr. ANDREWS. Yes, sir.

Senator BURTON. Will you put in a brief, to expedite matters, a statement in writing and the remedy you propose?

Mr. ANDREWS. Very gladly, Senator. Also, I would like to apologize for the position in which I am placed, of coming before your committee hastily. I prepared some statistics. I would be very glad to file these statistics, showing the taxes they pay and the different expenses they incur. Also, other matters, as how much money put in the ground by this little colony. Thanking you again.

EDWIN S. GILL, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. GILL. Name, Edwin S. Gill; age, 40; residence, Honolulu; occupation, attorney at law.

Senator MITCHELL. How long have you resided here?

Mr. GILL. Two years and five months.

Senator MITCHELL. Have you been practicing law all that time?

Mr. GILL. No, sir. Engaged in newspaper work for a year and a half.

Senator MITCHELL. The balance of the time?

Mr. GILL. The balance of the time practicing law.

Senator MITCHELL. Where did you reside before coming here?

Mr. GILL. Resided in Arizona.

Senator MITCHELL. Was your business that of a lawyer?

Mr. GILL. No, sir. Newspaper. Have been in newspaper work all my life until within the last year.

Before proceeding regularly on what I desire to particularly call the attention of the committee, I would like to correct the statement of the attorney-general in regard to the knowledge of the Territorial administration regarding Iwilei. The Territorial administration was inaugurated June 14, 1900. The first grand jury summoned in this Territory investigated Iwilei and reported that they found it in as good order as could be expected under the direct supervision and control of the board of health and police department. That was in August, 1900. That same month, the newspaper of which I was then the editor published the Edmunds Act and called the particular attention of the attorney-general to the Edmunds Act and asked him to assist in suppressing Iwilei. It also called attention to sections 99 and 100 of the Penal Laws of Hawaii, under which Iwilei could have been suppressed. In February, 1901, Mr. Olmstead, a special agent of the Department of Justice, came to this Territory and investigated Iwilei and made a report to the Department of Justice, which I secured several months later through the Washington correspondent of my paper, Mr. E. S. Little (doubtless the members of this committee know him in Washington as he has been there as a correspondent for a number of years). That report most severely condemned Iwilei and the action of the Territorial authorities in permitting such an institution to exist. That report was published in this city about the 1st of July, 1901, for the first time. Previous to that, in April, 1901, term of the United States court, Judge Estee called attention to Iwilei and to the fact that it was in direct violation of the Edmunds Act. So the attorney-general, as an intelligent man, must have known that Iwilei was not only existing in violation of the Territorial laws, but was existing in violation of the Edmunds Act, and yet no move was made by the Territorial authorities to suppress it until the injunction was issued by the circuit court.

Senator BURTON. When was that injunction issued?

Mr. GILL. I do not remember exactly, but sometime in September, 1901. I will secure the exact date.

I would like to add this. I have been in every city on the American continent from northern Canada to the Isthmus, and in none of the Latin-American cities, nor in any place over which the Stars and Stripes float or the British Jack waves, have I ever seen anything so infamous, so outrageous to decency and good order and good citizenship as was the bull pen of Iwilei.

What I particularly desire to appear before this committee about is in regard to certain amendments that I believe should be made to the organic act of this Territory. The citizens of Hawaii can not sue the Territory of Hawaii. The monarchy could not be sued, and there was no provision in the statutes for the citizens to sue the Republic, nor is there any such provision in the laws now. A man may be injured upon the sidewalks of this city, his horse may fall through a bridge, and he can not sue the Territory and recover damages. Section 7 of the act providing a government for Porto Rico provides that the island and its inhabitants shall constitute a body politic "with power to sue and be sued." It seems to me that the people of this Territory certainly ought to have the same right.

Senator MITCHELL. Is there nothing of that kind in your organic act?

Mr. GILL. There is nothing in the organic act, and nothing in the statutes to provide for it. The matter of Hawaiian coinage has been already referred to before this committee. Section 11 of the Porto Rican act provided for the retirement of Porto Rican coin; but there is nothing in our organic act providing for the retirement of the Hawaiian coinage.

Senator MITCHELL. We understand that very fully.

Mr. GILL. I would like also to touch upon the age limitation. In this Territory a man must be 25 years old to be eligible for the legislature, 30 years to be eligible for the senate, and 35 years of age to be eligible for the governorship, and besides these age restrictions, a man must have resided in the Territory three years before he is eligible to a seat in the legislature. Such limitations as these were never before contained in the organic act of any Territory, and I am positive such limitations and restrictions are not contained in the constitution or laws of any State in the Union. There is an age limitation in the Constitution of the United States for members of the House and Senate and for the President, which is the same as for this little Territory. No State or Territory has ever thus hampered its citizens. Why the president of this commission was elected city attorney of Portland at the age of 26, when he had only resided in the city for one year; he was elected a member of the State senate of Oregon when he was only 27 years of age and served with such marked distinction that he was elected president of the State senate when he was only 29, and I doubt if the gentleman would have had the marvelous career, of which every citizen of Oregon may well feel proud, had he been subject to the age and residence limitation prevailing in this Territory.

Senator MITCHELL. Never mind the bouquets. Go on to the next.

Mr. GILL. President Roosevelt was a member of the legislature of New York State when he was only 23 and was the candidate of his party for speaker of the house when he was but 24. Daniel Tompkins, one of the greatest governors that New York ever had, was elected governor the first time when he was only 32, and was so successful an executive that he was continued in the office for ten years,

a longer period than any other governor of the State ever served. William E. Russell had served three terms as governor of Massachusetts before he was 35 years of age, and Massachusetts never had a better governor in all her history. William Pitt, the second, was a member of Parliament at 21 and was prime minister of England at 24.

Senator BURTON. And Napoleon was commander of the army in Italy at 27.

Senator MITCHELL. Yes; you need not dwell upon that.

Mr. GILL. I believe the clause in sections 34 and 40, requiring a man to have resided in the Hawaiian Islands for three years before he is eligible to the legislature, should be stricken out. Such a clause ought to be entitled, "To discourage the immigration of American citizens to Hawaii." In the States of Kansas, Nebraska, Idaho, Iowa, Oregon, Washington, and a number of others, and in all the mainland Territories, the period of residence for acquiring citizenship and the right to hold office is but six months, and this has done much to encourage immigration into the new States, as it was intended to do. Six months is ample time for an American citizen coming to this Territory to acquire residence entitling him to vote or hold office in the Territory.

I want to call attention to section 80 of the organic act requiring all officials to be residents of the Territory of Hawaii, which I think should be amended by striking out the words "shall be a citizen of the Territory of Hawaii." Owing to the conditions which have existed here in the past, the overthrow of the monarchy, the establishment of the provisional government and later of the republic, followed by the restriction of the franchise under that republic, has created a feeling of bitterness in this Territory that it will take a generation to wipe away. In explanation of the causes which have brought about this bitter feeling it might be appropriate to call attention to the number of voters under the monarch, under the republic, and under the Territorial government. At the last election under the monarchy, that of 1892, when manhood suffrage prevailed without qualifications, the total registered vote was 14,217. At the first election under the republic, that of 1894, when suffrage was limited by both the educational and property qualification, the total registered vote was only 3,852. In 1897, the last election under the republic, when the suffrage qualification had been still further restricted by additional property qualification, the total registered vote was but 2,693, while only 1,917 were cast in the entire Territory. In 1900, the first election following the organization of the Territory, when the suffrage depended solely upon an educational qualification, the total registered vote was 11,218, while the total vote cast was 10,163. These figures need no comment. They speak for themselves as to why great bitterness exists toward the present administration, which is merely a continuance in power of those at the head of affairs under the republic or oligarchy. Whether it be a representative of the republic or one opposed to the present ruling power here there will be and will continue to be factional fights. The chairman of this commission is familiar with some of the factional fights in the older Territories of the mainland, in some of which the President has been compelled to remove the governor because of these factional fights. Here the feeling is even more bitter than in the older Territories, owing to the peculiar circumstances which have existed in the past, to which I have called your attention. The act providing for government of Porto Rico does not require the appointees to be resi-

dents of the Territory. In that regard it is similar to the organic acts of all the Territories ever created by Congress, excepting Hawaii. When the President was ready to name officials for Porto Rico he appointed that very able and efficient carpetbagger, Assistant Secretary of the Navy Allen, of Massachusetts, to be governor, and Judge Hunt, another carpetbagger, to be secretary, while a number of the other officials were of the same order of carpetbaggers, as our old-time residents of Hawaii are wont to call them. Likewise in the Philippines the President appointed such carpetbaggers as Judge Taft and Gen. Luke Wright to be at the head of affairs, and I can say without fear of contradiction that there has been no such howl sent up to Washington about the Territorial officials of Porto Rico as has gone up from this Territory. If it were provided for the President to appoint the governor, secretary, and judges from the mainland, I believe it would do more than all else to wipe out the bitter factional feeling existing here.

Senator BURTON. You would not make it obligatory?

Mr. GILL. No, sir; leave it to the judgment of the President to appoint these officials from the mainland or from residents of the Territory, as to him seemed best.

Senator MITCHELL. What next, Mr. Gill?

Mr. GILL. There is another thing that I would particularly call your attention to which is even more important than the subjects I have mentioned. And that is that Congress amend section 86 of the organic act of Hawaii so as to provide for appeals from the supreme court of this Territory to the United States Supreme Court. In all the history of the United States, until the Territorial government of Hawaii was provided for, never was there a Territory created that was not granted the right by Congress to appeal from decisions of the Territorial supreme court to the Supreme Court of the United States.

Senator MITCHELL. All over a certain amount—\$5,000, I believe.

Mr. GILL. Originally \$2,000; afterwards increased to \$5,000. From the original judiciary act of 1789, granting this right of appeal to the Northwest Territory, every Territory created by Congress in the whole history of the country was given this right, excepting Hawaii. Section 35 of the Porto Rican act provides for appeals to the United States Supreme Court "the same as from other Territories." Chapter 51 of the Alaskan code, section 504-508, provides for appeals to the circuit court of appeals and, in certain cases, from there to the United States Supreme Court. And I do not believe it was the intention of Congress to withhold a right from the people of Hawaii that has been granted to the people of every other Territory in the whole history of the United States.

In fact, I wish to call the committee's attention to the peculiar construction of the organic act of Hawaii. Turning to Chapter IV you will see it is headed "Chapter IV, the judiciary," and this chapter, embracing sections 80 to 84, inclusive, provides for the courts of the Territory and for the laws of Hawaii continuing in force. It does not say one word about appeals from the supreme court of this Territory to the Supreme Court of the United States. Following this chapter we find the heading in the organic act to be "Chapter V, Federal officials." Then over section 85 in this chapter we find the subhead "Delegate to Congress," while the next section, 86, appears under the subhead "Federal court." Reading along in section 86 we find away down in the body of the section this clause: "The laws of the United States relating to appeals, writs of error, removal of causes, and other

matters and proceedings, as between the courts of the United States and the courts of the several States, shall govern in such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii. The very fact of this clause being hidden, as it is away down in section 86, shows that it was a legislative trick intended to fool Congress, and I maintain that had it not been a trick of legislation that clause would have been attached to section 82, creating the Territorial supreme court, where it properly belonged.

Senator MITCHELL. As it now is there is no appeal unless the Constitution of the United States is involved, or according to that clause?

Mr. GILL. No, sir; there is not.

Senator MITCHELL. Any other cases?

Mr. GILL. One or two other points I desire to bring out.

Senator MITCHELL. You recommend a change in that respect?

Mr. GILL. Yes, sir; particularly in that. Another thing that I want to call the attention of the committee to is the expensive system of government here.

Senator MITCHELL. Before leaving that, what do you think of the method of filling vacancies on the supreme court of this Territory?

Mr. GILL. It is a method that ought to be abolished. It is often jocularly remarked here that we have a supreme court composed of one justice and two lawyers here. I think it is a very bad system. Just in passing, I wish to mention the enormous fees required to be deposited in filing a suit in the circuit court of this Territory. The cost of filing papers amounts to \$37.

Senator BURTON. For any amount?

Mr. GILL. Amounts up to \$300 may be tried in the district court, where the ordinary deposit is \$4. Owing to the peculiar system of stamp taxes and fees in this Territory, the costs amount to \$37 in the circuit court. Why, if a man is bringing a simple suit in assumpsit for \$350, or a suit in tort or contract for a small amount, a deposit of \$37 is required at time of filing suit.

Senator MITCHELL. I suppose if the total used does not reach that amount the balance is refunded.

Mr. GILL. The balance is refunded, of course, but that has no effect on the enormous deposit a poor man must put up before he can begin his suit.

Senator BURTON. Is there any provision for a poor person to sue?

Mr. GILL. Yes; in certain cases, where they take a pauper's oath. I would like to say also that there is no provision under which a poor person can take an appeal from the circuit court unless the attorneys put up the money for the transcript.

Mr. REYNOLDS (from the audience). In a criminal case, if a man wants to appeal, there is no provision that I have found to pay for a transcript unless the attorneys pay it out of their pockets.

Mr. W. O. SMITH (from the audience). No extra bond is required.

Mr. REYNOLDS (from the audience). I understand about the bond for costs. I have occasion to do it just now. In a murder trial, the defendant has got to appeal, has made affidavit that he is a pauper and not able to pay, and the attorneys have got to put up the money for the transcript.

Senator BURTON. Even after he makes such an affidavit?

Mr. REYNOLDS. Yes, sir; we can not get a transcript without paying for it. In this case the attorney-general and I agreed to pay for it, each one-half.

Judge GEO. D. GEAR (from the audience). That came up in my

court. There is no provision for it. The attorney asked the court to compel the stenographer to furnish the notes. There is no provision for the payment of the stenographer, and I denied it. The attorney-general and the attorney have put up the money. Whether it is out of the attorney-general's pocket or not, I don't know.

Senator BURTON. Well, we have got the law.

Judge GEAR. I want to say that there is no law for allowing the attorney-general to pay for it other than out of his own pocket.

Mr. GILL. The government of Hawaii has often been referred to as the best government on earth. It is possible it may be so and it may not, but certain it is that it is the most extravagant and most expensive government on earth, owing to the centralized system.

The expenses for the two-year period ending December 31, 1899, were \$4,746,000, or \$2,373,000 per annum. The average population for these two years was less than 140,000, so that the cost per capita per annum on the basis of 140,000 population was \$16.95.

Senator MITCHELL. Including public improvements?

Mr. GILL. Yes, sir.

Mr. E. P. DOLE (from the audience). Fire claims?

Mr. GILL. No, sir. For the two-year period ending December 31, 1899.

Mr. E. P. DOLE. Biennial?

Mr. GILL. For the biennial period \$4,746,000, or \$2,373,000 per annum—\$16.95 per capita per annum. Even reckoning on the basis of the population of June, 1900, 154,000, the cost was \$15.41 per capita per annum.

The expenditures of the State of Nebraska for the two years ending April 1, 1899, were \$2,486,000, and for the two years ending April 1, 1901, \$2,591,000, or an average of \$1,396,250 per annum for the four years. The population in Nebraska for June, 1900, was 1,068,900, so that the per capita cost per annum for the four years was \$1.28.

Mr. W. O. SMITH (from the audience). Did that include county and city expenses?

Mr. GILL. No, sir. State government. I am coming to that later. The expenditures of the State of Utah for the two years ending December 31, 1900, were \$1,029,000, or \$514,500 per annum, exclusive of schools which are under county control and which cost \$300,000 per annum. The population of Utah in June, 1900, was 276,565, so that the cost of State government for the years 1899-1900, including the expenses of the legislature and all other State institutions, together with cost of public schools under county control, was \$2.94½ per capita per annum.

Senator MITCHELL. Did that include the cost of city government?

Mr. GILL. No, sir.

Senator FOSTER. Speaking of the public schools, does that include buildings?

Mr. GILL. No.

Senator FOSTER. Hiring of teachers?

Mr. GILL. The total expense of maintaining.

Senator FOSTER. I hardly think that can be so. In the States the expenses of education are partly paid with certain moneys from their school land and distributed to the districts pro rata, so much for each scholar. They also have a special tax.

Mr. GILL. This is the amount expended on the schools. I am not speaking of the income. I am speaking of the expenses of the State and of the schools as given in the report of the State auditor.

The report of Auditor-General Dix for the year ending June 30, 1900, shows that the total expenditures of the State of Michigan for all purposes for the year were \$5,168,718. The population of the State (ninth in the Union) in June, 1900, was 2,419,782; hence the cost of State government was \$2.13 $\frac{1}{2}$ per capita per annum.

The cost of Hawaii for 1900 was 44 per cent of the cost of Michigan. The population of Hawaii is less than that of 5 average counties of Michigan's total of 83 counties, with a total population of 2,500,000.

Senator MITCHELL. I suppose the general rule is that the cost of government is less the larger the population.

Mr. GILL. Yes, sir. That is true, and right on that point let me take the Territory of New Mexico. The cost of the Territorial government for the years 1897-1898 was \$321,317 per year. The estimate of the Territorial auditor for 1899-1900 was \$350,000 per annum. The population in June, 1900, was 195,310, so that the cost per capita per annum for the four years was only \$1.80. The cost there should be more than here, because New Mexico is more sparsely populated than this Territory, New Mexico having only a population of 1.6 people to the square mile, while this Territory has a population of 24 to the square mile.

The committee adjourned until 2.30 p. m.

AFTERNOON SESSION.

Senator MITCHELL. Proceed, Mr. Gill.

Mr. GILL. Before taking up the figures of the expense of government here, there are two or three questions which were brought up this morning which I would like to refer to. The matter of appeal in the courts. Act 44 of the session laws of 1898 provided for appeals from the district magistrates. It provides in section 1 that "any party deeming himself aggrieved by the decision of any district magistrate in any case, civil or criminal, may appeal by filing notice of such appeal within five days after the rendering of such decision and paying the costs accrued within ten days after the date of such decision." The State does not pay the costs. The Territory does not pay the costs. The man must pay the costs himself if he appeals.

Senator MITCHELL. Does that apply to a felony?

Mr. GILL. No, sir; only misdemeanors. The district magistrate does not have jurisdiction over felonies. A man must pay the costs of a felony case in the circuit court if he desires to appeal to the supreme court. As Mr. Reynolds has called the attention of the committee to the fact, then the defendant must pay for the transcript for appealing from the decision of the circuit court.

The question of bonds for public officials was brought up. The only thing in the statutes in reference to a bond is in section 25, chapter 6, general regulations for departments, which permits the head of a department to require bonds of his subordinates, but does not make such a requirement mandatory.

Under the republic, no bond was required of the ministers and no bond is required from the heads of departments at this time. The treasurer who handles millions of dollars is not required to give bond, as was stated this morning. Act 39 of the session laws of 1898 requires that the auditor-general, as he was called under the republic, now the auditor and the deputy auditor shall each give bond for the faithful performance of their official duties in such amount as the executive council may direct.

And speaking of this executive council, as it is called, I would like to call the attention of the commission to this relief of the republic, or oligarchy. The organic act of Hawaii does not contain one word about an executive council and yet we have such a body in this Territory and it not only exercises executive functions, but legislative as well, and in one instance attempted to exercise judicial functions. The subject of an executive council was discussed by the Commission appointed by President McKinley in 1898 to frame an organic act for the Territory. The majority report, signed by Senator Cullom, said, on page 17:

The majority of the Commission have not been able to agree with the suggestions of those who favor the creation of a "cabinet" or "advisory council" to aid the Territorial governor in his administration of the affairs of the Territory of Hawaii. * * * The history of the Territories of the United States, covering many years of experience, has not, in the opinion of the Commission, shown a necessity for any number of advisors. The powers of a Territorial governor are likely to be so clearly defined by the legislation of Congress and the laws of the Territory that there will hardly be need for such an establishment as an "executive" or "advisory council."

Despite the fact that the commission thus reported and that Congress failed to provide for such a body, the Territorial administration was no sooner organized than an "executive council" was formed and, as pointed out, it has not only arrogated to itself executive powers but legislative as well.

Governor Dole presented a minority report on this question urging that the various heads of departments should constitute an executive council, giving as one of his reasons, as appears on page 19 of the commission's report, that:

The political troubles of the Hawaiian community, culminating in the downfall of the monarch, were mainly due to the persistent efforts of successive sovereigns to acquire unlimited personal power.

And yet there never was a sovereign in the days of the monarchy that possessed the "unlimited personal power" now possessed by the Territorial governor, and if the organic act, as prepared by the commission, had been enacted by Congress, his power would have been still greater, as section 83 of the original draft (see p. 37 of the Report of the Hawaiian Commission, printed in 1898) of the organic act provided that the governor should appoint not only the various officers he now appoints, but all the supreme and circuit judges of the Territory as well—a power that no one outside the members of the Hawaiian commission would have dreamed of placing upon the governor of a Territory, himself an appointed officer.

Senator MITCHELL. Did you say the treasurer does not give a bond?

Mr. GILL. No, sir. Neither the treasurer or the attorney-general, nor the superintendent of education, who expends three quarters of a million dollars annually—or rather that amount is expended under his supervision—give bonds; only the subordinate officials to the heads of departments give bonds, and not then unless specially demanded by their superiors.

Senator FOSTER. The high sheriff?

Mr. GILL. Yes, sir; the high sheriff gives a bond.

Senator MITCHELL. Who to?

Mr. GILL. To his superior officer, the attorney-general, who is not under bond, and not to the Territory.

While on this subject, the statement was made here this morning by the attorney-general that under the head of contingent expenses every department accounted for every penny expended. I maintain that there is no accounting for the contingent expense. The attorney-

general insisted that there is—that a warrant is issued for every penny expended. I do not question that statement, but no accounting is ever made to the people for the expenditures under the head of contingent expenses. The people know nothing of it, for the reason that the auditor, in making his report, only makes his report in general terms. For instance, the last published report of the auditor, which I hold in my hand, and which I will present to the commission, in giving a list of the expenditures under the attorney-general's, does not give an itemized statement of the contingent expenses. He simply gives the salary of the attorney-general, all in a lump sum, the salary of the clerk, and so on. On page 89, under the head "Incidentals," we find amount appropriated, \$40,000; amount drawn for one-half of the biennial period, \$15,699.80. No items. Nothing to show for what the money went.

Senator FOSTER. Is there a pay roll?

Mr. GILL. There is a pay roll, but it is never published; never shown to the public.

Senator BURTON. Well, the incidental expenses; no publication?

Mr. GILL. No, sir; only in this form: Amount of appropriation, \$40,000; amount drawn, \$15,699.80. That is as far as it goes. The same way in the attorney-general's department. The money might be spent for furnishing the attorney-general's house, as far as the people know. I will present the commission with a copy of the attorney-general's report.

Senator BURTON. Could not any citizen investigate the expenditures of this office?

Mr. GILL. I think not. The tendency in all the offices in this Territory is to run them on the principle of "the people be damned." Occasionally if a man be personally acquainted with a particular official he might get some information, but the general tendency has been not to give it. I hold here a copy of the report of the attorney-general of the United States for the year 1900, and under the head of contingent expenses I find every item, such as this: 6 yards of gimp, 10 cents a yard, 60 cents; 7 cents for a feather duster, etc.

I looked for the auditor's report for the Territory of Arizona, but I have evidently mislaid it. If I can get it I will present it to the committee. In that report every warrant drawn in Arizona is enumerated with the amount, number, date, and the fund upon which the warrant is drawn. This is all required.

Senator BURTON. It is required in all of our States.

Mr. GILL. When the Hawaiian legislature was in session a year ago last winter there was great difficulty experienced by the committee on military in securing an itemized statement of the expenses of the military other than in a lump sum, as appears in the auditor's report on page 71. We find a statement like this in the auditor's report:

Support of military pay roll, amount appropriated, \$110,000. Amount drawn, \$47,334.25. Nothing to say how it was drawn or what it was drawn for. But the house committee kept hammering away. I will read from page 394 of the house journal (1901) from the report of the committee on military to the house of representatives:

These figures show that during the three years covered by these reports the amounts spent upon the military were as follows:

Total cost of militia.....	\$166,184.19
Cost of Citizens' Guard.....	8,193.00
Band.....	55,903.96
Total.....	230,281.15

Senator BURTON. You mean since annexation?

Mr. GILL. All of this since annexation, excepting the first seven months of 1898. It is the last report.

Senator MITCHELL. Two years and one-half prior to annexation?

Mr. GILL. No, sir; two years and one-half of it since annexation and six months under the Territory.

Senator MITCHELL. What does the military include?

Mr. GILL. Eight companies of militia, a volunteer organization known as the Citizens' Guard, and the band.

I will state that for the years 1890 to 1892—and I know what I am talking about, as I was in the position of adjutant-general of Arizona at the time—the total expenditure in Arizona for any one year never reached \$4,000, and we had nine very good companies, which formed the nucleus of one battalion of Rough Riders in the Spanish war.

I will read from page 396 of this same report of the House Committee on Military:

The books show that with pay of tailors, buying cloth and made garments, the purchase of gold and gilt ornaments, helmets and belts, and the general accouterments of the dress-parade soldier, there was spent during the period \$16,576.69. Perhaps some light may be shed by the particulars: Gold and gilt ornaments, \$2,617.53, and this without the consul's fees and importer's charges; caps and gauntlets, \$1,244.84, and swords and sabers, \$199.11; helmets are down for \$836.74, and the detail puts the cost at from \$8 to \$52 each.

Items which appear to this committee to be unusual, placing the mildest possible term upon it, are as follows: Refreshments at camp fires, \$276.62; refreshments at sham battles, \$140; beer and soda water, \$90; hack, horse, and wagon hire, \$1,163 78; the latter item in addition to one of \$769.35 for cartage and boat hire. Stationery comes in for the sum of \$687.32, and the white trousers of the regiment stood \$191.92 worth of washing during the term.

Senator MITCHELL. Was there a resolution providing for this investigation? How did the report happen to be made?

Mr. GILL. The committee on military made the report.

Senator BURTON. How did they get the facts?

Mr. GILL. In the regular line of its duties. The committee demanded to know how such enormous sums had been expended on the military. They employed an expert accountant to go through the auditor's books and kept hammering away until they got all the facts and then made their report.

Senator MITCHELL. What was the report?

Mr. GILL. A recommendation that no such appropriation as asked for by the governor be voted.

Senator BURTON. What appropriation was asked for for the National Guard?

Mr. GILL. Excuse me a moment till I look up the figures—\$10,080 under salary account, and under maintenance account \$35,500.

Senator BURTON. Salary to whom?

Mr. GILL. Captain, adjutant, etc.

Senator FOSTER. How much was appropriated that was asked for? How much did the legislature give them?

Mr. GILL. I will have to turn to the records to give the exact amount, but it was approximately \$10,000.

Probably the most unusual item of expenditure was that of refreshments at camp fires, \$276.62, and also in this connection I will say that the members of the governor's staff, who are always supposed to buy their own uniforms—the position is purely an honorary one—had their uniforms purchased for them out of the public funds, including even gold and gilt ornaments.

This morning, when the session adjourned, I had just finished speaking of the Territory of New Mexico.

The cost for the Territory of Arizona for the year ending June 30, 1900, according to the list published in the report of the auditor, including \$90,000 expended on a new capitol building, was \$270,665. The population in June, 1900, including over 30,000 Indians, was 123,000. The cost per capita, including the amount spent on the capitol building, was \$2.20; exclusive of the amount spent on the building, the total cost of Territorial government was \$1.50 per capita for the year.

California is generally acknowledged to be the most extravagantly governed State in the Union. The report of Comptroller Colgan for the two years ending June 30, 1900, shows a total expenditure, including \$6,620,000 spent for the support of the schools and \$1,000,000 for harbor improvements at San Francisco, amounting to \$17,988,460, or \$8.994,230 per annum. The population of California in June, 1900, was 1,485,000, or a trifle less than \$6.06 per capita per annum. Hawaii cost at the same time almost three times as much in proportion to the population, or \$17.10½ per capita.

Senator BURTON. You still have not touched on the county.

Mr. GILL. I will touch on that. We have no counties here. It is hard to get that.

Coming down to the last session of the legislature and the appropriations. For salaries alone, for the two years ending June 30, 1903, the legislature appropriated, on recommendations of the governor, \$2,149,813.50, or three and a half times as much as the total cost of the government of the Territory of New Mexico for two years, including all the public institutions, and almost as much as the total cost of the State of Nebraska for two years, including all its State institutions and boards and the support of its National Guard. For salaries alone, the appropriations amounted to \$6.98 per capita per annum.

Senator BURTON. Were those appropriations larger than recommended?

Mr. GILL. No; considerably smaller. Other appropriations under fixed charges and public improvements amounted to \$3,523,530.52, while appropriations for miscellaneous unpaid bills amounted to \$79,000; legislative expenses, \$94,000, and \$17,400 for the expenses of the fire claims court swelled the grand total to \$5,821,538, exclusive of the \$1,500,000 for the fire claims, or a per capita per annum of \$18.95, while, including the fire claims, the per capita per annum amounted to almost \$24.

Senator FOSTER. Would that include all fire claims?

Mr. GILL. The legislature appropriated \$1,500,000 to pay the fire claims.

Senator FOSTER. How much has been paid?

Mr. GILL. None of it.

Senator FOSTER. How much is in the treasury already set aside?

Mr. GILL. None set aside to pay; not one penny. Of the \$3,671,725 appropriated, aside from the salary appropriations, but \$1,483,640 were for public improvements, or a cost of \$14.08½ per capita per annum for this little Territory. If we add the \$1,500,000 appropriated for the fire claims, we have a grand aggregate for the biennial period of \$7,321,538, or \$23.77 per capita per annum. The Governor's estimates called for a total of \$7,927,869.75, exclusive of legislative expenses and fire claims, or \$25.74 per capita per annum.

Senator FOSTER. Including building?

Mr. GILL. Including \$1,500,000 for roads and bridges, public improvements, and some for the harbor.

Senator FOSTER. City improvement?

Mr. GILL. This is for the Territory generally.

Senator MITCHELL. Mr. Gill, suppose you want to improve a street in Honolulu, the money that goes for that improvement comes from a general fund raised all over the Territory?

Mr. GILL. Yes, sir.

Senator MITCHELL. There was no assessment made upon the property?

Mr. GILL. No, sir; not a penny, excepting under the head of general taxation for the general fund of the Territory.

Senator MITCHELL. The total improvement of streets in all your cities, in all your towns, has to come from the general fund raised?

Mr. GILL. Yes, sir.

Senator FOSTER. Taxation of the plantations, does that go into the general fund?

Mr. GILL. Yes, sir.

Senator MITCHELL. Don't abutting property pay for street improvements?

Mr. GILL. No, sir; in mainland cities the general rule is, after the improvement of a street has been decided upon, for one-half the cost to be assessed against the abutting property and the other half by the city at large from the general street-improvement fund, but we have no such system.

Senator BURTON. Is light and water paid for out of the general fund?

Mr. GILL. Yes, sir; paid for out of the general fund.

Senator BURTON. Does a man up in the mountains who has no light or water pay for those who do?

Mr. GILL. Yes, sir.

Senator MITCHELL. The people in the streets of this city, any city, do they have anything to say as to whether a street shall be graded or not?

Mr. GILL. No, sir; they have nothing to say about it.

Senator MITCHELL. No petition?

Senator FOSTER. Can't induce improvement by petition of two-thirds or one-half of the property owners?

Mr. GILL. No, sir; not unless the superintendent of public works or the governor see fit to make it.

Mr. W. O. SMITH (from the audience). You forget the Hawaiian law on opening and widening the streets.

Senator MITCHELL. I am not speaking of opening a street. I am speaking of streets already opened which need improvement.

Mr. GILL. That is the way I understood the Senator.

Senator MITCHELL. Now, Mr. Gill, who constitutes the board of public works in this Territory?

Mr. GILL. One man, the superintendent of public works. The present incumbent is Mr. J. H. Boyd.

Senator FOSTER. Any others?

Mr. GILL. Road supervisors for each district and a road board.

Senator MITCHELL. If a street needs improvement in Honolulu or in Hilo, who determines that?

Mr. GILL. The road board or the road supervisor for that district recommends to the superintendent of public works, and the superintendent orders it done, if he agrees that it should be done.

Senator MITCHELL. It rests with the superintendent of public works, does it?

Mr. GILL. Yes, sir; it does not rest with the people.

Senator FOSTER. As to the necessity of it.

Mr. GILL. Yes, sir.

Senator MITCHELL. Who makes the estimates, then, if anybody, of the cost of the improvement?

Mr. GILL. The assistant superintendent, or the engineer is sent by the superintendent of public works, or he may call upon a surveyor.

Mr. W. O. SMITH (from the audience). Don't you know that the road board of each district has charge of the work specially?

Mr. GILL. The road board can not order it done unless the superintendent of public works approves it. In paving the streets of this city it rests with the superintendent of public works.

Mr. SMITH. Outside of Honolulu the control is by the local boards.

Mr. GILL. Subject to the supervision of the superintendent of public works.

Senator BURTON. Who appoints these boards?

Mr. GILL. The governor.

Senator BURTON. Subject to removal?

Mr. GILL. Practically not; yes and no. The organic act provides that appointees may be removed. All boards or officials are appointed for a term of four years.

Senator MITCHELL. Take this city—the board here.

Mr. GILL. There is no board here. That only applies to the country districts. We have a road supervisor in this city.

Senator MITCHELL. What does he do?

Mr. GILL. Looks after and superintends the roads subject to the superintendent of public works—a sort of street commissioner.

Senator FOSTER. Sidewalks?

Mr. GILL. The superintendent of public works has charge of them.

Senator FOSTER. Through this road supervisor?

Mr. GILL. If a property owner wanted to build a sidewalk he would apply for a grade to be established, and then build it. The superintendent of public works has the power to order it.

Senator FOSTER. If he don't, what do you do?

Mr. GILL. In that case the special board who have the opening and widening of streets have something to say. In this city the special board or board of surveys, as it is called, recently in widening Waikiki road appointed a special road jury to consider the widening of that road and assessing damages and betterments.

Senator FOSTER. The law provides for this?

Mr. GILL. Yes, sir.

Senator MITCHELL. This same rule applies to the construction of sewers, does it?

Mr. GILL. I could not answer as to the construction of sewers. I have not looked into that.

Senator MITCHELL. Are the sewers paid out of the general fund?

Mr. GILL. They are paid out of the general fund; yes, sir. There is no special tax for sewers.

Senator MITCHELL. Is there any tax upon the people of this Territory locally, taxes, I mean, aside from the property taxes?

Mr. GILL. There is a poll tax—a road tax. The poll tax is \$5 here; \$1 poll tax, \$2 for school fund, and \$2 for the road fund.

Senator FOSTER. Who pays that tax?

Mr. GILL. Every voter.

Senator FOSTER. It doesn't reach the Japanese?

Mr. GILL. Yes, sir; I should have said every male resident over 21 years of age instead of every voter.

Senator FOSTER. Do the men working on the plantation pay poll tax?

Mr. GILL. Yes, sir.

Senator MITCHELL. Is there a personal-property tax?

Mr. GILL. Yes.

Senator FOSTER. What is the rate of taxation?

Mr. GILL. One per cent, exclusive of the income tax.

Senator FOSTER. What is the per cent of income tax?

Mr. GILL. Two per cent on all over \$1,000.

Senator MITCHELL. When was the income tax provided for?

Mr. GILL. By the last legislature.

Senator FOSTER. Do the proceeds of the income tax go into the general fund?

Mr. GILL. They go into the general fund. All taxes, except the road and the school tax, go into the general fund.

I will start in again on the governor's estimates, which called for \$7,927,869.75. Now that included \$799,000 to be raised by loan fund. There was an act of 1895 or 1896 authorizing the issue of bonds, and the acting governor held that the Territorial legislature could authorize the issuance of these unissued bonds authorized by the republic. But this was not believed by the legislature to be true, so this portion of the estimates was withdrawn and items substituted amounting to \$493,000. Later on, Acting Governor Cooper submitted an estimate containing the \$799,000 and two smaller amounts, one being for \$71,000 for miscellaneous unpaid bills, which made the grand aggregate recommended and called for \$7,927,869.75, exclusive of legislative expenses and the fire claims, or \$25.74 per capita per annum. The legislature appropriated over \$2,000,000 less—over \$2,500,000 less than the estimates.

The expenditures of Hawaii for the year ending December 31, 1900, were \$3,572,175. Of this amount one-half was expended under the old order of things and the other half under the Territorial government. The expenses for the six months ending June 30, 1901, were \$517,654, or a total for the eighteen months of \$4,089,829.51, being at the rate of \$17.70½ per capita per annum. In that six months the expenditures were less than half of what they had been for any six months for four years previous. The reason for the small expenditure during the first half of 1901 was that the legislature was in session and the governor and all executive departments were setting up a great cry about the treasury being bankrupt, and trying to force the legislature to pass a loan bill and make extravagant appropriations in accordance with the governor's estimates. Take the expenditures of the year 1900 by themselves and they amounted to \$23.20 per capita. Even with the very low expenditures for the first six months of 1901, the total for the eighteen months ending June 30, 1901, made an aggregate of \$17.70½ per capita per annum. This amount did not include the salaries of the governor or the secretary of the Territory, the judges, postmasters, or customs officials, after June 30, 1900, all these being paid by the United States after that date.

For the fiscal year ending June 30, 1902, the expenditures were \$2,280,579.41, or \$14.81 per capita for every human being in the Territory.

Reference has been made to the fact that in making these comparisons county and municipal government has been excluded. While I

have been unable to get the reports I meant to have laid before the committee from the various States, I maintain that there is not another city of the same size as this anywhere in America where the per capita cost of government per annum equals this.

The city of Cincinnati is a much larger city, and they have heavy taxes. There are few cities, in fact, that pay such heavy taxes as Cincinnati. That is owing to various causes. Twenty million dollars worth of bonds were issued in the early seventies for the Southern Railroad. There were \$6,000,000 worth of bonds issued in the early eighties for street improvements. Shortly afterwards was \$2,000,000 for a new city hall, and in 1896, \$7,000,000 for waterworks. The city is very heavily in debt and has to be maintained, besides the interest and a sinking fund for its indebtedness, besides providing for public improvements. In the annual report of the board of supervisors of Cincinnati and Hamilton County for the year ending December 31, 1900, the rate of taxation for city purposes is given at \$1.42; school, 49 cents; county, 39 cents; State, 28.4 cents, and public library, 3 cents, making a total of \$2.57 $\frac{4}{5}$. That tax was assessed upon an assessed valuation of \$200,000,000, producing \$5,148,000 in taxes for all purposes.

Senator FOSTER. How many taxpayers are there in these islands?

Mr. GILL. I could not answer that question. I don't think—well, I suppose figures might be obtained possibly at the treasurer's office. They certainly never have been published or anything that would show that. If it is possible to obtain these figures, I will do so and supply them. I have never seen any publication issued by the Territory indicating it.

The population of Cincinnati is 325,902, and the tax rate given produces a tax of \$5,148,000 for all purposes, which is \$12.73 per capita per annum for the residents of the city. For those residing in Hamilton County, outside of the city, the per capita tax is considerably less than one-half that amount. In Hawaii in 1900 our government cost us \$23.20 per capita, not only in Honolulu, but also in every country district as well.

In the county of Maricopa, Ariz., the Territorial tax is 80 cents. I have a copy of the supervisor's report, but I can not find it to-day, so must depend upon my memory. I know that the Territorial tax is 80 cents on \$100, and my recollection is that the county and school taxes are \$1.55, making the total for all purposes outside the city of Phoenix \$2.35 on \$100.

Senator FOSTER. Any of that go to the irrigation of Maricopa County?

Mr. GILL. No, sir; irrigation is conducted by private enterprise. The total raised on an assessed valuation of \$9,000,000 is \$211,500, or \$9.60 per capita per annum.

The people in the city of Phoenix raise in direct taxes about \$40,000, or a per capita of about \$4 per annum, which, added to the other, makes \$13.60 per capita per annum, which is still less than in this Territory. The county of Maricopa is larger than the area of this entire Territory. There are two Indian reservations in the county and a large region of desert and of mountain. The population of 22,000 is included within an area covering about 230,000 acres, and the total cost of running that county outside of the city of Phoenix is only a little more than half as much per capita as it costs to run the government of this Territory.

I am of the opinion that the extraordinary expenses here are largely

due to the peculiar conditions that existed under the Republic. They had a large income from the customs revenues and the internal revenues. I would liken the condition to that of a prodigal young man who comes into a big inheritance and does not know how to use it. Gradually the expenses added until we have a tremendously expensive system.

Senator MITCHELL. Is there any public debt?

Mr. GILL. Not now; the United States assumed all the public debt.

Senator MITCHELL. At that time, what was the public debt?

Mr. GILL. In round figures, \$4,000,000.

Senator FOSTER. How much is the floating debt?

Mr. GILL. Between \$700,000 and \$800,000, according to the auditor's report.

Senator FOSTER. How do they propose to provide for the floating debt?

Mr. W. O. SMITH (from the audience). About \$4,000,000, leaving the rest still outstanding, a bonded debt which will have to be redeemed later.

Senator MITCHELL. Does that draw interest?

Mr. SMITH. Six per cent.

Mr. GILL. Now, I maintain that a county government for the islands of Lanai, Molokai, and Maui, and Kahoolawe could be maintained at a less cost than the cost of police and district magistrates at the present time. The area of this county would be 1,180 square miles and the population 28,000. The area is about the same as Whatcom County, Wash., with which you are probably familiar. The appropriations for deputy sheriff and police for the two years ending June 30, 1903, are \$58,300, and for district magistrates, \$12,560, or \$35,430 per annum, and this does not include the pay of jailers and guards and the maintenance of prisoners.

The cost of the deputy sheriffs and police alone is \$29,150 per annum, more than enough to pay all the expenses of a county government aside from schools and public improvements.

I was making some figures here this morning. These four islands constitute what would be known in California—the same in Oregon—as about a fourth-class county, fourth or fifth class county. The cost per annum of officers in a fourth-class county is about as follows:

Sheriff and assessor, \$2,500; under sheriff and jailer, \$1,200; deputy sheriff, \$900; district attorney, \$1,800; clerk, \$900; recorder and auditor, \$1,800; clerk, \$900; probate judge and ex officio superintendent of schools, \$1,800; clerk, \$900; county clerk, \$1,500; supervisors, \$900; county surveyor, \$1,000; total, \$16,100. That is, \$16,100 per annum for officials. There are five districts, six districts including the island of Lanai, in what would be Maui County. A justice of the peace and a constable for each district would preserve the peace.

Senator MITCHELL. How many counties do you think there should be in the Territory?

Mr. GILL. Five. This island, one; Maui, Molokai, and Lanai, one; Hawaii, two counties, and the island of Kauai, one.

Senator BURTON. That leaves out Niihau.

Mr. GILL. That would be attached to Kauai. I believe with Abraham Lincoln that you can always trust the people. I do not believe that any one set or faction contains all the virtue and goodness of a community any more than that any one political party possesses all of the patriotism of the nation.

Senator BURTON. What is the reason that you do not have county and municipal government?

Mr. GILL. In the early days it was thought to detract from the majesty of the King.

Senator BURTON. I am not talking about the early days now.

Mr. GILL. The present Territorial administration and its supporters generally have been opposed to county government.

Senator BURTON. The enabling act enables you to have it?

Mr. GILL. It says we may have it. A county government bill was passed by the last legislature and pocket-vetoed by the governor.

Senator MITCHELL. Have you a printed copy of that bill?

Mr. GILL. I did have. I will endeavor to find it.

Senator BURTON. Have you a copy of the veto?

Mr. GILL. Pocket-vetoed. No reasons given.

Senator MITCHELL. I wish if you could, you would get me a copy of that bill as it was passed by the two houses.

Mr. GILL. I think I can secure a copy. The same conditions exist here as existed in Porto Rico. Governor Allen in his first message, of January, 1901, speaking of the centralized system there which corresponds to that here said: "There is no need of the cumbersome form of government which now obtains. It is expensive and elaborate." Then, after recommending the creation of municipalities consisting of the first and second class cities and of towns, he says: "Such a system will allow for less complex and less expensive government."

Senator MITCHELL. Who is this?

Mr. GILL. Governor Allen of Porto Rico. He adds: "The subdivision of the island into counties will be desirable." No such message has even been sent to the legislature in this Territory.

In summing up, I would like particularly to call attention to the recommendations I have made as to changes in the organic act. These changes seem desirable and I would especially recommend that section 80 of the organic act be amended by striking out the words, "shall be a citizen of Hawaii." I also recommend that provision be made for appeals from the supreme court of the Territory to the Supreme Court of the United States, the same as from the other Territories, and that provision also be made for the Territory to sue and be sued and the establishment of county and municipal government.

Senator BURTON. Would you have Congress make that mandatory?

Mr. GILL. Yes, sir. Strike out the word "may" and insert "shall." You will do so if you wish to provide for county and municipal government in Hawaii. There should also be a complete revision of the present laws of the Territory, but of course that is out of the province of the Commission. I thank you.

Senator MITCHELL. We are very much obliged.

EMIL NEY, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. NEY. My name is Emil Ney. My age is 54. Residence, Hilo. Occupation, public office.

Senator MITCHELL. What public office do you hold?

Mr. NEY. Not now. I was jailer in Hilo here four weeks ago—five weeks ago.

Senator MITCHELL. How long have you lived on these islands?

Mr. NEY. The 26th of next month, three years.

Senator MITCHELL. Where did you reside before you came here?

Mr. NEY. In the State of California.

Senator MITCHELL. Are you a native of the United States?

Mr. NEY. No; I am a native of a foreign land. I am a relative of Field Marshal Ney of France. I came very young to the United States.

Senator MITCHELL. Where were you born?

Mr. NEY. I was born in Prussia, under the Emperor of Germany. I left my country when I was about 11 years of age.

Senator MITCHELL. You presented a letter here addressed to the Commission, Mr. Ney. State if the statements contained in that letter are true.

Mr. NEY. Yes, sir.

Senator MITCHELL. Do you wish to supplement your letter by any further statements?

Mr. NEY. I do.

Senator MITCHELL. Please state it.

Mr. NEY. The object of that petition is the reason why. Hilo has a population of 1,500. The prison of Hilo has an average of about 60; sometimes 58, sometimes comes up to 73 and 76. There is an average of about 60 there. The people there incarcerated with my knowledge that they have not committed a crime. It is purposely done for to assist the public works. There is not a dollar spent out of the public works to do work at Hilo.

Senator MITCHELL. You say you are employed as jailer at Hilo. How long?

Mr. NEY. The months of June and July.

Senator MITCHELL. Of this year?

Mr. NEY. Of this year.

Senator MITCHELL. How did you come to quit your business?

Mr. NEY. On account of the provision of nothing to eat.

Senator MITCHELL. By whom were you appointed?

Mr. NEY. By the deputy sheriff down there.

Senator MITCHELL. The sheriff?

Mr. NEY. The sheriff; yes.

Senator MITCHELL. Were you dismissed?

Mr. NEY. No, sir.

Senator MITCHELL. Did you resign?

Mr. NEY. I resigned.

Senator MITCHELL. Why?

Mr. NEY. It cost me twice as much to live as my salary was.

Senator MITCHELL. What was your salary?

Mr. NEY. Thirty dollars.

Senator MITCHELL. And your living?

Mr. NEY. Two dollars and fifty cents.

Senator MITCHELL. For how long?

Mr. NEY. For the month, the salary.

Senator MITCHELL. And it cost you what?

Mr. NEY. Two dollars and fifty cents a day, on an average.

Senator MITCHELL. You would run behind a little on that. Well, what do you want to say of a public character for our information?

Mr. NEY. Well, since I came into this Territory it has been continuous persecution on the part of the attorney-general's department and the high sheriff here in this Territory.

Senator MITCHELL. In what way?

Mr. NEY. By giving items to the newspaper and being cartooned. The high sheriff has threatened me by running me out of the island. I shall state now the reason is: I came to these islands not by my own free will. I came here to ex-Senator Neumann, the attorney-general

here of this island here sometime under a king here, I believe. I was with him in the senate in the State of California in 1881 when he was there as senator. He visited California and said for me to come down here.

Senator MITCHELL. It is not material how you came here. If you know of anything relating to the present conditions of a public character, state it. We care nothing about how you came here or when you are going away. We want facts relating to matters here.

Mr. NEY. This is a fact. When I came here, I came here employed to go into the Government service. That is the way I came here. When I arrived here I reported right away in the custom-house to seek service. The appropriation had exhausted. They want me to come back at 8 o'clock in the morning and give my answer yes or no in the morning at 8 o'clock. I did not go. I went to see the secretary or treasurer, Mr. Cooper, at that time. I want to speak and I could not get any satisfaction from him. I went to see Mr. Dole, the president. Mr. Dole claimed he did not know the condition that was here. He said to me he would like to have my services. He said how much tax could you live on, \$60? He said, I guarantee you to give you \$60 from the police fund. I will see you get service.

Senator MITCHELL. When was this?

Mr. NEY. This was three years ago, when I arrived here.

Senator MITCHELL. All that is not material. We care nothing about it. Have you finished with your business now?

Mr. NEY. The business now; it is here last week; the sheriff hold me up and take me down toward the station house and told me, "I hear you are going before this commission." I said, "I do." He said, "You dursn't tell." He called me names before the six dozen officers present. He said he would take and put a head on me. The governor and the high sheriff both know about this matter.

In Hilo, that jail there is a pigpen, an penitentiary, a lockup, a jail, a pesthouse, wagons and carriages, and all manner of things in one place. It is filthy, dirty. When you get into that gate you can see into that how it is. In 100 yards you will see men exposed there—men, women, and children.

Senator MITCHELL. You have called this to our attention. We are going to Hilo, and we will look into this. Is there anything else you wish to say?

Mr. NEY. Yes; I wish to say that the average of prisoners is 60. The reason of this is that the public works wants them to make an average of 60 men to do public work without any expenditure of public works money. They have come to me in the evening by asking me about the time of the expirement of two or three prisoners; the time expires, and I say it will expire to-morrow, and they want me to let him work until in the evening that day it expires. This is a sample of how it was when I was there. These people are brought in simply that they may work. Judge Little can't reach them. It is run down there by the sheriff. Now, one instance.

Senator MITCHELL. Judge Little gives good satisfaction?

Mr. NEY. Yes; it can't reach him. It don't come to his notice; it has to get legally there. It takes money to do it, and these people haven't got it.

Senator MITCHELL. You have said all these things in this communication. I think we understand what your complaint is. We will look into it.

Mr. NEY. Just one more thing. The jailor went out with a buggy,

and in the evening he came back with the buggy in a hundred pieces. In two hours there was a native blacksmith, and he got sixty days, and a new buggy was built. Then fence blew down, and they got a white man, and before they got through they had a stable built for 24 horses. They want canvas; an American sailor is arrested and charged with larceny.

Senator MITCHELL. We have such a short time to hear about matters and things on this island, that we can not take much time for each person. We are going to Hilo to look into matters there. When we arrive there we will look into all these matters that you have directed our attention to.

Mr. NEY. This department runs Hilo, you know.

Senator MITCHELL. What else do you want to say?

Mr. NEY. Well, now, for instance, the attorney-general told me my salary was \$600.

Senator MITCHELL. Suppose he did; we have nothing to do with that. We can not fix your salary here. You have told us that you received \$30, and it cost you \$2.50 to live. We understand the facts, and we will look into them when we reach Hilo.

JOSEPH M. OAT, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. OAT. James M. Oat; 54 years; residence, Honolulu; occupation, postmaster.

Senator MITCHELL. How long have you been postmaster here?

Mr. OAT. Since 1893.

Senator MITCHELL. Since 1893?

Mr. OAT. Yes, sir.

Senator MITCHELL. Postmaster under the provisional government and the republic?

Mr. OAT. Postmaster under the provisional government and the republic of Hawaii.

Senator MITCHELL. Have been ever since?

Mr. OAT. Yes.

Senator MITCHELL. State what you have to say, Mr. Postmaster, in regard to the Hawaiian money, about the uses and operations in this Territory and in your office.

Mr. OAT. Regarding Hawaiian money along in 1891, we had been depositing into the National, the First National Bank——.

Senator MITCHELL. Government depository, is it?

Mr. OAT. Yes, sir; my attention was called to the fact that there was too much silver presented, particularly Hawaiian silver, and there seemed to be a hesitancy about accepting it in payment, preferring gold payment. Accordingly I wrote to the head of the Postmaster's Department, the Postmaster-General, calling his attention to this fact, and receiving his reply stating it would be brought up before Congress, no doubt, and a coinage bill would be passed. Last year I had the same difficulty. It came up again. Too much silver; in fact one bank held about \$200,000 in silver, four-fifths of which was Hawaiian currency. They claim that Hawaiian currency would not pay their bills and that they prefer American currency. There was too much silver and I thought it would create a panic and I again wrote to the Department. I have copies of the letters.

Senator MITCHELL. They won't be necessary.

Mr. OAT. They simply stated that the act was up before Congress and there was no doubt but what it would pass.

Senator MITCHELL. Are you familiar with the act that was passed last session in the Senate?

Mr. OAT. Yes, sir; I received a copy of it.

Senator MITCHELL. Do you recommend the enactment of that into a law?

Mr. OAT. Yes, I do.

Senator MITCHELL. Now, state what your accommodations here are, the building you occupy.

Mr. OAT. Well, the building we occupy at the present time is rather congested.

Senator MITCHELL. Rather congested?

Mr. OAT. Yes, sir. We could do with a much larger building.

Senator MITCHELL. State if you know of any Government property here upon which a building could be erected without cost for the ground; that is, Government property.

Mr. OAT. Where the post-office is now is Government property. Whether it has been ceded to the United States, I don't know.

Senator FOSTER. Are you paying any rent there?

Mr. OAT. No, sir; no rent being an item, I take it for granted the property belongs to the Government. I think the adjoining property also belongs to the Government. That property has a frontage of 175 feet by 80 feet deep. For a post-office building would probably be sufficiently large. I don't know if it was to be a Federal building with all the other officers. For a Federal building I don't think it would be large enough, and to leave a space for a certain amount of room; so if they took that, it would reduce that lot somewhat.

Senator MITCHELL. Have you a free-delivery system in operation here?

Mr. OAT. Yes, sir. A little over a year.

Senator FOSTER. Rural delivery here?

Mr. OAT. No, sir.

Senator FOSTER. Parties have to come to the station?

Mr. OAT. To a certain extent we have rural delivery. The carriers in passing along from one office to another in a country district, if request is made, their mail is left en route. To a certain extent we have rural free delivery, but as carried out in the United States we have not, to any great extent, the system as it is there.

I did not come prepared to talk on a public building. I was requested to come to talk on this currency question. I have no particular data on the other.

There was another place mentioned as a ground for a post-office Federal building, this large gore right opposite the square here. It has been mentioned, talked upon favorably by quite a number of people in Honolulu; but I don't think it is Government property.

Senator FOSTER. The Government owns it?

Mr. OAT. I don't think so. They may own a portion of it.

Senator BURTON. Does the Government own the judicial building here, opposite the palace?

Mr. OAT. Yes, sir.

Senator FOSTER. Anything more you want to say?

Mr. OAT. I have nothing particularly, Mr. Senator.

Senator FOSTER. How much help have you in the office here? How large a force have you?

Mr. OAT. I have about 43 all told, including carriers; 10 carriers, 1 special, and the balance employees of the office.

Senator BURTON. You have a resident post-office inspector in this island?

Mr. OAT. Yes.

Senator BURTON. One?

Mr. OAT. One superintendent in charge, 1 superintendent of railway mail service.

J. M. VIVAS, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. VIVAS. John M. Vivas; I am 39 years old; I am an attorney by profession, and I live in these islands.

Senator MITCHELL. How long have you lived in these islands?

Mr. VIVAS. Since 1879.

Senator MITCHELL. You are a native?

Mr. VIVAS. I am a native of the Madeira Islands, a Portuguese possession, and an American citizen. I am a citizen, even if I didn't want to be, but I am very glad to be one.

Senator MITCHELL. Please state what you desire.

Mr. VIVAS. I have been leader of the Portuguese colony here for many years. I think I can represent their feelings. I am one of the few who have no grievance to present to this honorable committee. We only wish to call the committee's attention to two or three matters that we consider of importance to the colony and to the Territory of Hawaii.

Senator MITCHELL. We shall be glad to hear you.

Mr. VIVAS. In the first place, I wish to say that what spurred me in coming to see you, gentlemen, was the statement that Mr. Burton made, that you came here to hear no lies. After hearing him I thought I would have a good chance to come without any lies. So much has been spoken about immigration and laboring and plantation matters and industrial matters in this country, I thought it was our place to say something, and, without consulting anyone or any organization, I came here by my own free volition to say something in regard to the question of labor in these islands.

In many ways I am in touch with many affairs of the laboring class here, and I wish to say to you, gentlemen, that, knowing that Congress is absolute in the laws they may pass as to the Territory, I am going to discuss the details by which it may be brought about. I wish to call attention to this: If it was possible in some way, instead of bringing orientals, I think it would be not a loss to the Territory or the Union at large to bring more of the people I belong to in, because the number of Portuguese that have come here to these islands since 1878 have proven to be not only thrifty and good laboring class in its majority, but have also proven to be a law-abiding class of citizens, and since they have been American citizens they have proven to be good American citizens. The population of the different States of the Union, I think, will bear me out in these statements.

The class of labor that was imported from the islands of Portugal, the islands belonging to Portugal, has been a benefit to the islands, not only as laborers, but from this large number of people that have come with them we have to-day not judges, because the judges came from stock elsewhere, but from judges, doctors, lawyers, public officers of different kinds, priests, ministers of the gospel, Catholic and Protestant both, and we all seem to be well acclimated to the Territory in every way, not only to the country itself, but to the laws of the gov-

ernment, and now more especially the laws that we have in some respects from the United States.

This is one of the important questions that I would like to call to your attention, and anything I may do in facilitating the great industries in the country. I hope that something may be done by which immigration of Europeans—I do not discriminate in favor of my own people—I hope that something can be done to populate this country with good American citizens and men that they can mingle with.

Senator MITCHELL. From what islands, generally, do the Portuguese come?

Mr. VIVAS. From the Azores, and from the western islands, generally, and from the Madeira Islands.

Senator MITCHELL. Any from the mainland?

Mr. VIVAS. Not any immigrants from Portugal.

Senator MITCHELL. About how many would you think, all told?

Mr. VIVAS. We are close on to 20,000, closer than anything else.

Senator MITCHELL. Twenty thousand?

Mr. VIVAS. Because families average four children to the family. I am counting the children and all.

Senator BURTON. Are your people—do they like this climate?

Mr. VIVAS. Well, the climate is almost the same as Madeira.

Senator BURTON. Will your people work on the plantations?

Mr. VIVAS. A good many of them. The great objection had to plantations heretofore was the system of contract labor. That has gone with annexation.

Senator BURTON. Why don't they come here and get to work?

Mr. VIVAS. Well, they—there have not been the proper efforts at a time when laborers could have come here by those on the plantations. They would have come here by the thousands without the stumbling block, as I know personally that the plantation men feared the Catholic, thinking that the Portuguese would be Catholics. I wish to say I am the most liberal-minded man in the world, and I don't wish to mix up religion with this, but it was stated to me once, when it was suggested to join interests, that they would not want very many Portuguese for the reason that they were nearly all Catholics. That was one of the objections.

Senator BURTON. Why didn't they come of their own free will?

Mr. VIVAS. Their means would not permit them to come to this country without being assisted to that end.

Senator FOSTER. That would make it contract labor.

Senator BURTON. Are they willing to work for the wages they can get?

Mr. VIVAS. Certainly.

Senator BURTON. Why don't you enterprising Portuguese get them to come here and go to work?

Mr. VIVAS. I may state to the commission this fact: The Portuguese in these islands at the present time are not in a position to advance the necessary capital for such a large undertaking as it would necessitate to bring these people over.

Senator BURTON. It don't cost much to come here from there?

Mr. VIVAS. The planters claim over \$300 for families to come; for each family. Those laborers can't pay their own way to come here. As I said just now, a large part of these laborers will not venture to go to a foreign land and become laborers unless they are assisted to do so. As I believe, 90 per cent of the great number of laborers that enter the United States every month, if the matter was sifted to the

bottom, it would be found probably they were assisted in some way to come. They don't come with their own cash.

Senator BURTON. Well, the Government don't pay the cash.

Mr. VIVAS. I didn't come here to ask the commission to have the United States in any way to do it, but if it was allowed——

Senator BURTON. Why don't you go to these people and say a lot of our friends here will help you if you get them here?

Mr. VIVAS. I have told them lots of times. Before annexation they gave an excuse, and since annexation the excuse given that the representatives of the United States Government would probably order the steamer with them back to the islands—back to Portugal. I have that statement from some of the very large representatives of the sugar industry here, that they would not countenance anything of the kind. It would put them to large loss and expense in sending back the laborers that came here in that way.

Senator BURTON. These laborers could come here of themselves.

Mr. VIVAS. Certainly they could come, but they can not pay the expensive passage from these islands to the Territory.

Senator BURTON. What does it cost?

Mr. VIVAS. To come from these islands to the Territory it would cost certainly over \$100.

Senator FOSTER. For one person?

Mr. VIVAS. Yes, sir; even if they came through the United States mainland—New York, or a port on the Atlantic—across on the railroad and then across here.

Senator MITCHELL. How large wages are paid here? What wages do these Portuguese get at present?

Mr. VIVAS. There is a difference in the currency; the currency here is gold and there silver.

Senator MITCHELL. How does the price of living compare?

Mr. VIVAS. Probably twice as expensive at the present time.

Senator MITCHELL. Here?

Mr. VIVAS. Yes, sir.

Senator BURTON. When you say that you want the United States Government to make some encouragement to bring some of your people here, what do you mean?

Mr. VIVAS. My point is just this: Men representing the very large industries made reference in the statement that it is impossible to bring them here on account of the United States laws not allowing any kind of assisted immigration. That is the reason why I make the statement as to immigration.

A different class of immigrants could be obtained from these islands. From information recently received they would come if the system of obtaining lands was different to what it has been.

Senator BURTON. What change would you recommend?

Mr. VIVAS. The change, I do not think it would do much good. The lands would be of use to these people, but they are all taken by the sugar plantations in such a way that there is nothing left that is good.

Senator BURTON. Could not water be put on other lands and make them available?

Mr. VIVAS. When you gentlemen go to Hawaii and see the homesteads I am very certain you will not wonder why these people would not want to live there.

Senator BURTON. What I am trying to get at is this: You take these lands where the plantations are that are watered artificially,

could your people raise the money to put water on, suppose the land was divided into small homesteads?

Mr. VIVAS. Not individually. Probably in companies private enterprise would spring up with the capital to do that as they have for other purposes.

Senator BURTON. Do you mean to say that the agricultural lands are all gone?

Mr. VIVAS. Practically three-fourths is already in use, or all held on long leases. I would recommend in further leases that the proviso be inserted as it is now, that land required for homesteading can be taken from these leases. That would be a good idea.

As to the number of immigrants, there would be more immigration, and the most important point to bring to the attention of your committee is the fact that if these facilities are given them the planters then will have no excuse in saying they can't bring Portuguese because the United States laws do not allow them to do anything of the kind. The merchants of Honolulu will bear me out, when the Portuguese immigration stopped, along in 1886, the large bulk of immigration, the business of the commission men and large importing houses of Honolulu decreased. Some of the houses, as they have told me, decreased to a very serious point. This showed that these people were doing business with European houses, and were people who could mingle in the community. Of those who made small fortunes, of the Portuguese I don't think more than half a dozen have left these islands and have not returned.

Senator MITCHELL. About 5,000 Portuguese laborers here?

Mr. VIVAS. I should say a little less than 5,000 at present.

Senator MITCHELL. What proportion of the 5,000 are employed on the plantations as laborers?

Mr. VIVAS. Probably there were in 1900, we considered, about 4,000 employed as laborers—as common laborers or skilled laborers.

Senator MITCHELL. Unskilled laborers?

Mr. VIVAS. I should say safely 3,000. There was the objection, not only to the contract system—they would not work under contract—but many of the laborers that came here way back in 1879 you will find them still working on the same plantations; you will find some that way. One of the greatest objections that they have is in being quartered near the Oriental hands that work on the plantation. You gentlemen travel through our country here and you will see that any family that has lived under civilized conditions of Europeans will object to being quartered near the Orientals. That is exactly what the facts are. These are the objections of laborers from the United States to living on the plantations. It is the question of quarters so near the Orientals. They have no idea of civilization at all the way they dress and carry on. That is one great drawback. This country would have a larger number of Europeans and probably a good many Americans.

There has been said to you much about the share-profit system in this country. I may say to you of my own knowledge, because I interpreted some of the contracts—the first one to be given out—and if the contracts that were first given to the Portuguese to work here—any one of the contracts—were given to the Americans the Americans would make a good living on this land, as they make in the United States. The contracts that were first given—when the planters saw how much the Portuguese got, they saw too much; that the poor laborer was getting too much at the rate of \$2 per day, and they

changed the next contracts given out, so that only Japanese can live on them. I can not say what proposition they gave to the American farmers who came to Ewa, but if they would give such contracts as they gave the first Portuguese, an American farmer could come to this country and labor.

I am probably to a certain extent of a delicate nature and I have labored in these cane fields and I have felt better than at my desk all day, and labored long hours, too.

Senator FOSTER. What share did they pay these laborers?

Mr. VIVAS. It was one-sixth of the sugar produced after certain expenses were paid. That was the first contract given by Ewa plantation, if I am not mistaken, several years ago. What I know is this, that at the end of the crop they had an average of \$2 a day and plenty of time to plant their own vegetables.

Senator FOSTER. Now what are the contracts given?

Mr. VIVAS. The contracts they are trying to give now on the other islands, it would be impossible for any man outside of an Oriental to live, because our people must have their coffee, and sugar, and bread, and they clothe their families in a proper, decent way. The large number of little ones included into the bargain makes it so they can't live on the same basis as the Orientals do.

The other matter that I wished to say, is this: As to the matter of citizens' voting privileges in this country. I have had the honor of being a member of a committee that waited on Senator Cullom when he came down here on the annexation committee. I wish again to call your attention, gentlemen, to this fact: Under Kalakaua there was a provision that all Europeans in this country could vote, leaving out the Asiatics and those of Asiatic descent. I would say to you, gentlemen, if anything can be done on that line it would be not only a debt of gratitude to these you help but to the country that is to-day a part of the great Union.

Senator BURTON. Can't you vote?

Mr. VIVAS. I can vote. I am a voter. I am speaking of the large number who are deprived by the qualifications in the organic act. I would suggest if the vote were given to the people, as it was in 1887, you, gentlemen, would not have the large number of Asiatics voting here in the Territory. If all naturalized Americans could vote and the Asiatics not, they would have no cause to complain, because they were on the same basis in 1887. That is what I have to say to you, gentlemen.

Any further information you want about the Portuguese colony will be given, according to Senator Burton, as "no lies" at your convenience.

H. C. SLOGGETT, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Dr. SLOGGETT. My name is H. C. Sloggett. I am 51 years of age. I am a physician in Honolulu. I am president of the board of health.

Statements were made here before you with regard to the expenditures of the leper settlement. Now, Judge Humphreys is reported to have said that the per capita expenditure at the leper settlement is something like \$750. I don't know whether the report was true or not. The actual expense is \$123.

Senator MITCHELL. One hundred and twenty-three dollars per capita per year?

Dr. SLOGGETT. Yes, as against \$750. He said that many poor families in Honolulu would be glad to get that amount.

Senator MITCHELL. The judge stated, however, that he might possibly be mistaken.

Dr. SLOGGETT. He is very much mistaken, very wide of the mark; \$123 and \$750 is a very large difference. I wish to correct that as one point. The next point I would like to bring up is the statement reported in the paper in regard to Dr. French.

What actually took place is this: On the 30th of April we, for cause, removed the late superintendents of the leper settlement, Dr. Oliver and Dr. French. We had to appoint some one to fill the vacancy there. The settlement could not be left without a physician entirely. There was no man available here at all, as I think Mr. Dole, the attorney-general, told you. We wished to get in applications for some competent and good man to fill the situation, and there was no man apparently available at the time.

We looked around for a man to appoint temporarily for the position. We appointed Dr. French for one month only, and with the distinct understanding that at the end of one month he should leave. After he had been there two weeks a petition came from the lepers that he was treating them so well and that they were so well satisfied that they would like the board of health to make the appointment permanent. That we did not think desirable. Still we thought, as apparently everything was getting along very well, we would leave him alone for a time and it would give us more time to get in applications from men in the States. He remained there until August 15. For nearly three months apparently everything was going well. Then the superintendent reported that Dr. French was not maintaining his position as he should do. He was going off picnicking and allowing certain leper women to ride in his buggy, which was altogether not holding up his position as he should do as medical superintendent. I said we would remove him at once, which we did. We preferred no charges against him of immorality or any others. Possibly we could have substantiated them if we had made them. He was unduly familiar with some of the female lepers there, but I had no evidence that I could have gone into court of law with; no testimony; no charge of neglect on the part of the board of health. We could not have prosecuted him successfully. Had he been here himself when the very strong charges were made against him, probably Dr. French would have started a suit for defamation of character. We could not prove anything. On these grounds he was removed.

Senator BURTON. Where is he now?

Dr. SLOGGETT. He has left the country, sir; he went away.

Senator MITCHELL. Was there any specific charge made by any person?

Dr. SLOGGETT. No; merely Mr. McVeigh, the superintendent, complained that he considered that Dr. French was not maintaining his position as he should do there as medical superintendent; that he was too familiar with the lepers, mixing with them, eating with them, and lowering himself generally; and on these grounds we let him out. He was only appointed for one month.

The settlement is conducted on an extremely economical basis. The board of health would be pleased to have you, gentlemen, go there, go as our guests. Everything is open. Then you can see the conditions, and I give you the invitation in the name of the board of health.

Senator BURTON. How long have you been president of the board of health?

Dr. SLOGGETT. Over a year.

Senator BURTON. How many children have there been born in the leper settlement in the past year?

Dr. SLOGGETT. I could not state right off. I think 20, possibly, born in the last year.

Senator BURTON. How many of these were illegitimate, if any?

Dr. SLOGGETT. Well, I suppose a considerable proportion of them.

Senator BURTON. How many have been born there since you were president of the board of health?

Dr. SLOGGETT. Last year, 18 or 20 children.

Senator BURTON. Have you been connected with the board of health in any capacity longer than that?

Dr. SLOGGETT. I have been a member of the board of health for thirteen months and president one year.

Senator BURTON. Do you think it wise for the male and female lepers to cohabit?

Dr. SLOGGETT. I think it would be working extreme hardship to them. They live in cottages, and although perhaps not legally married, conduct themselves as if they were married. I think it would work great hardship and cause bitterness of feeling if you attempted to touch these relations. I am strongly in favor of leaving that alone.

Senator MITCHELL. What proportion are males and what proportion are females?

Dr. SLOGGETT. I could not quite—I could not give you those. I think the males outnumber the females, possibly, by some 150.

Senator BURTON. What became of these 20 children?

Dr. SLOGGETT. The children of these lepers were some of them sent to the Baldwin Home and some to the Bishop Home and others to the Kalihi station here in the charge of the government and taken care of and educated and brought up. We remove them as soon as we can. Of course the parents feel the separation, but generally when we explain the danger they agree peaceably.

Senator BURTON. Don't you think there is danger of the spread of leprosy by letting the children of lepers come out and mix with the people?

Dr. SLOGGETT. No, sir; I do not think there is any danger at all, not the slightest.

Senator BURTON. You don't?

Dr. SLOGGETT. I think these children can come down here with perfect safety. The disease is a specific bacillus.

Senator BURTON. Have you never—have none of the children ever developed leprosy?

Dr. SLOGGETT. I have never known of a case, or heard of a case, of one of these children taken from the settlement and brought to Kalihi receiving station there, one of these children relapsing.

Senator BURTON. Did you ever know of a child developing leprosy?

Dr. SLOGGETT. Yes; some of the children at the settlement have developed it.

Senator BURTON. Did you ever know of any children removed from there to develop it?

Dr. SLOGGETT. Not of my own knowledge.

Senator BURTON. Not of your own knowledge, professional knowledge?

Dr. SLOGGETT. Perhaps I misunderstand you. I don't know of any children that have been taken from the settlement to develop it.

Senator BURTON. You never heard of a child of a leper developing leprosy?

Dr. SLOGGETT. I have heard of them.

Senator BURTON. That is what I say.

Dr. SLOGGETT. I can't say I have heard authoritatively.

Senator BURTON. You don't believe it yourself?

Dr. SLOGGETT. No; I won't go so far.

Senator BURTON. You certainly have avenues of information on that subject. It is an important subject. Don't you think it is dangerous to allow them to go out, eventually in later life as they grow up to mix and mingle with the people anywhere?

Dr. SLOGGETT. No; after children have been removed from there they have shown no sign of leprosy if you take them away. They do not show it again.

Senator BURTON. Did you never hear of its being shown?

Dr. SLOGGETT. No.

Senator BURTON. Didn't you ever hear about a girl 17 years old developing leprosy?

Dr. SLOGGETT. From the settlement?

Senator BURTON. Yes.

Dr. SLOGGETT. I have not heard of any case of that kind.

Senator BURTON. You have not?

Dr. SLOGGETT. No, sir.

Senator BURTON. You don't think there is danger of development in the second generations?

Dr. SLOGGETT. No.

Senator BURTON. What causes it?

Dr. SLOGGETT. A specific bacillus, such as plague.

Senator BURTON. What is that?

Dr. SLOGGETT. Well, you know what a bacillus is? Just the same as you find tuberculosis you will find in all cases of leprosy the patient has the bacilli swarming in the tissues, but it don't seem to pass on.

Senator BURTON. Where were you educated, doctor?

Dr. SLOGGETT. At Edinburgh.

Senator BURTON. How long have you practiced medicine?

Dr. SLOGGETT. Twenty years.

Senator BURTON. How long here?

Dr. SLOGGETT. Eight.

Senator BURTON. Where did you practice before that?

Dr. SLOGGETT. I practiced in British Columbia and in the States, at Washington, D. C.

Senator BURTON. Were you connected with the Government in any way?

Dr. SLOGGETT. No.

Senator BURTON. Just a practicing physician?

Dr. SLOGGETT. Yes; a practicing physician.

Senator BURTON. Who is in charge down there—has been or is there as a minister of the gospel, anyone?

Dr. SLOGGETT. There are two priests, one Mormon elder, and I think there is a Methodist. I don't know whether he is a minister or simply an elder.

Senator BURTON. What was the name of the priest that stayed there so long and died?

Dr. SLOGGETT. Father Damien.

Senator BURTON. Who succeeded him?

Dr. SLOGGETT. Dr. Conrade.

Senator MITCHELL. Is Father Conrade there now?

Dr. SLOGGETT. No; he has gone, sir.

Senator BURTON. Have you dismissed any father from there lately?

Dr. SLOGGETT. No, sir.

Senator BURTON. Have you given him notice to leave?

Mr. W. O. SMITH. Father Conrade was dismissed before your time.

Dr. SLOGGETT. The present priest is Father Wendelin.

Senator BURTON. Is he there yet?

Dr. SLOGGETT. Yes, sir.

Senator BURTON. Is he a reliable man?

Dr. SLOGGETT. I believe he is conscientious and does his duty as a priest to the congregation, to their satisfaction and his own.

Senator BURTON. He is a conscientious man?

Dr. SLOGGETT. I think so.

Senator BURTON. Very reliable in the settlement?

Dr. SLOGGETT. Well, I have no means of knowing whether he is or not.

Senator BURTON. That is his reputation?

Dr. SLOGGETT. That he is a good priest.

Senator BURTON. What is his full name?

Dr. SLOGGETT. Father Wendelin.

Senator BURTON. Just that name?

Dr. SLOGGETT. I don't know.

Senator BURTON. You have not decided to remove him?

Dr. SLOGGETT. No, sir; we have not. We have decided to leave him there.

Senator BURTON. Well, was there any talk of his removal?

Dr. SLOGGETT. I believed that he was interfering outside of his duties as a priest in the management of the settlement, and we asked the bishop to remove him, and on further consideration, and after consulting with the bishop, we decided to allow him to remain on the strict understanding that he confine himself strictly to his clerical duties.

Senator BURTON. What did he do in the matter of interfering?

Dr. SLOGGETT. We brought no charges. We simply considered he was unwarranted in making trouble, when his influence thrown the other way would have made matters smooth.

Senator BURTON. What did he do? What was the charge?

Dr. SLOGGETT. There was no charge.

Senator BURTON. You say you decided to remove him without any charge?

Dr. SLOGGETT. The whole correspondence and the whole evidence I can bring before you.

Senator BURTON. I know, but you can answer my question now.

Dr. SLOGGETT. I am answering it.

Senator BURTON. I say, you decided to remove him without any charge?

Dr. SLOGGETT. We decided that his influence at the settlement was not good.

Senator BURTON. Why?

Dr. SLOGGETT. He interfered with the superintendent.

Senator BURTON. What was he doing?

Dr. SLOGGETT. Making considerable trouble generally. He was accused by the superintendent of making the lepers dissatisfied with the management generally. We thought it wiser that he should go.

Senator BURTON. What was the basis of it? What did he do? What did he say, if anything? Did he write any letters?

Dr. SLOGGETT. There were constant sources of irritation and trouble going on at the settlement, constant complaints and dissatisfaction, and we thought that Father Wendelin, if he had used his undoubted influence as a priest to smooth matters over, it would have been better.

Senator BURTON. You didn't hear of his writing any letters?

Dr. SLOGGETT. No; he didn't write any letters. He did not put himself in print.

Senator BURTON. I am not speaking about print.

Dr. SLOGGETT. I mean writing anything.

Senator BURTON. The Catholics here passed a resolution condemning your proposed action in removing him?

Dr. SLOGGETT. They did.

Senator BURTON. And upon that you reconsidered the action and allowed him to stay?

Dr. SLOGGETT. We went into the matter with the bishop, and the bishop said that he thought that in consideration of Father Wendelin's long service he wished us to reconsider the matter, and out of courtesy to the bishop we did.

Senator BURTON. Not because you thought that the man was all right, but out of courtesy for a bishop?

Dr. SLOGGETT. Out of courtesy we allowed him to remain. Since then there has been no further trouble.

Senator BURTON. I wish you could be more explicit.

Dr. SLOGGETT. We made no charges, and I have no charges to make against him now.

Senator BURTON. You don't seem able to say he had done anything. He had done something that caused you to remove him, but you don't seem to be able to tell us what it was?

Dr. SLOGGETT. Well, without reopening up that whole question, which I think is inadvisable, I don't think it would be wise to open it up now.

Senator BURTON. Why, what is the objection to telling us why you decided to remove this Catholic man who had been there many years, whom you say is a conscientious man?

Dr. SLOGGETT. We believed he was using his influence to cause trouble, making the position of the superintendent very difficult, working against the superintendent and not with him.

Senator BURTON. How long has the superintendent been there?

Dr. SLOGGETT. Some eight or ten months.

Senator BURTON. Who is the present superintendent?

Dr. SLOGGETT. Mr. McVeigh. It is of a former superintendent I am speaking.

Senator BURTON. Is that the man that complained against Father Wendelin?

Dr. SLOGGETT. Yes.

Senator BURTON. How about the present superintendent?

Dr. SLOGGETT. No; no present trouble with the present superintendent.

Senator BURTON. How long ago was it that you decided to remove Father Wendelin?

Dr. SLOGGETT. It took place last March.

Senator BURTON. How long has the present superintendent been there?

Dr. SLOGGETT. He has been there since the 1st of April.

Senator BURTON. Where is the former superintendent?

Dr. SLOGGETT. He is in Honolulu.

Senator FOSTER. Did you not tell us that there was a great lack of harmony there?

Dr. SLOGGETT. There is not, now, sir. That was before. We thought it wise to make a clean sweep.

Senator BURTON. How long has Father Wendelin been there?

Dr. SLOGGETT. He has been in that settlement ever since the other father died, ever since Father Conrade went away.

Senator BURTON. You say it was last March that you decided it was best to remove Father Wendelin?

Dr. SLOGGETT. The latter part of March. About the latter part of March or the 1st of April.

Senator BURTON. I wish you would look at that letter, Doctor. Will you be here to-morrow?

Dr. SLOGGETT. Yes, sir.

The commission adjourned until 9 o'clock in the morning.

TUESDAY, *September 16, 1902.*

Senator BURTON. To what school of medicine do you belong, Doctor?

Dr. SLOGGETT. To the regular school, allopath.

Senator BURTON. You say you attended the college at Edinburgh?

Dr. SLOGGETT. And at Glasgow.

Senator BURTON. At Glasgow; and what—of what institution are you a graduate?

Dr. SLOGGETT. Doctor of medicine from Glasgow, the College of Surgeons and the College of Physicians.

Senator BURTON. From what college did you graduate?

Dr. SLOGGETT. From Glasgow University.

Senator BURTON. You are an alumnus of Glasgow University?

Dr. SLOGGETT. Licentiate of the College of Surgeons and also of the College of Physicians.

Senator BURTON. What do you mean by that?

Dr. SLOGGETT. That I took those degrees as well in Edinburgh as in Glasgow.

Senator BURTON. You are a native of where?

Dr. SLOGGETT. I am a naturalized American citizen, but a native of Great Britain.

Senator BURTON. What year a graduate of Glasgow?

Dr. SLOGGETT. 1878.

Senator BURTON. And from Edinburgh?

Dr. SLOGGETT. In 1878, too.

Senator BURTON. What degrees?

Dr. SLOGGETT. M. D., C. M., mastery of surgery, and licentiate of the two colleges.

Senator BURTON. How long have you lived in the islands?

Dr. SLOGGETT. Eight years.

Senator BURTON. Been in the practice of your profession all that time?

Dr. SLOGGETT. Yes.

Senator BURTON. Aside from being president of the board of health, you are in general practice now here?

Dr. SLOGGETT. I am practicing as an oculist and aurist here.

Senator BURTON. Making a specialty of that?

Dr. SLOGGETT. Yes.

Senator BURTON. Did you make any charges against the Reverend Wendelin?

Dr. SLOGGETT. No, sir; we made no charges against him.

Senator BURTON. Did you decide on his removal without preferring any charges?

Dr. SLOGGETT. We did; we decided on his removal because we believed in the interest of harmony at the settlement it would be best. Father Wendelin had for some years, we believed, been the source of irritation and friction in the settlement. He was constantly interfering, as we thought, outside of his clerical duties, and we thought the interests of harmony made it best that we ask the bishop to remove him and give us another priest in his place.

Senator BURTON. What did he do?

Dr. SLOGGETT. Well, it is very difficult to say what he did do. He certainly stirred up strife, I consider, there.

Senator BURTON. In what way?

Dr. SLOGGETT. Well, he was constantly jarring with the superintendent of the settlement. There were some disaffected lepers there always making trouble, constantly complaining, writing the board of health, sending down petitions against the superintendent, and we believed that Father Wendelin, instead of using his undoubted influence to quiet matters over, was working behind them, we thought, and in the interest of the settlement that it was best for him to go. All the inhabitants there are there only by permission by the board of health. We were perfectly within our rights in removing him or asking for his removal—absolutely within our rights.

Senator BURTON. When you decided upon his removal did he not—didn't the bishop protest?

Dr. SLOGGETT. Yes; the bishop protested. At least we asked the bishop to remove him. The whole correspondence will be here; it is being copied now. We are perfectly willing to put the whole thing before you. The board's position was this: We considered Father Wendelin was an element of discord there, and that being our opinion we were perfectly within our rights in removing him from the settlement without any request to the bishop, but out of courtesy to the bishop, out of respect, we asked him to do it for us. He said he could not do that unless we preferred charges. We said we would not prefer charges. Father Wendelin was in the position of *persona non grata* to the board of health. The bishop wrote us a letter in which he said in view of Father Wendelin's long service there he would like us to reconsider the decision we had made. Out of respect to the bishop we left Father Wendelin there.

Senator BURTON. You say the bishop asked you to prefer charges if you had any, and you refused?

Dr. SLOGGETT. Yes. It is within our rights to remove anyone without charges. Anyone we consider detrimental to the settlement we can remove him. Those are the legal rights of the board of health. Everyone there in the leper settlement, not a leper, is there by our permission, and our permission only, including the various denominations and their ministers.

Senator BURTON. That is something of the policy here, anyway, isn't it, Doctor, to act without much restraint in the administration of affairs?

Dr. SLOGGETT. You mean of the board of health affairs?

Senator BURTON. Yes. It is a policy that grew out of monarchical ideas?

Dr. SLOGGETT. Well, I don't know that I can say that. I wasn't here under the monarchy.

Senator BURTON. But it is true?

Dr. SLOGGETT. I think that such an institution as the settlement, which is more like a large hospital, it is certainly in the interests of good government there that the board of health should have supreme power, and if they see anything going on at the settlement which they see is not right or conflicting in any way with good government, they should have the power to remedy that without referring to outsiders.

Senator BURTON. I say that seems part of the general policy obtaining in these islands.

Dr. SLOGGETT. I am speaking simply for the board of health. I don't know the policy of the government.

Senator BURTON. It is the policy of the board of health?

Dr. SLOGGETT. It is the policy of the board of health to allow no outside interference with the management of the settlement.

Senator BURTON. Or allow any inside interference?

Dr. SLOGGETT. Or any inside interference either. To maintain discipline there we must be absolute.

Senator BURTON. Well, you have a very large fund at your disposal, the board of health, does it not?

Dr. SLOGGETT. We have for the biennial period; we have \$171,000 for the segregation and support of lepers, \$171,000 and \$58,000 extra for the pay roll or leper employees up there.

Senator BURTON. Then that is only part of the duties of the board of health? You have a great deal more money than that for other purposes, have you not?

Dr. SLOGGETT. Oh, yes. I am speaking of the appropriation for the leper settlement only.

Senator BURTON. I am speaking about all you have. You have a very large fund at your disposal, a great many employees under you?

Dr. SLOGGETT. A great many employees under us; yes.

Senator BURTON. What is the full aggregate amount of money at the disposal of the board of health?

Dr. SLOGGETT. They are a part of the board of health appropriations, sir.

Senator BURTON. Just give them to us; give me the aggregate; that is what I want.

Dr. SLOGGETT. Well, it is several hundred thousand dollars.

Senator BURTON. Are all these doctors, called "government doctors," under your charge?

Dr. SLOGGETT. All under our direct supervision.

Senator BURTON. They are doctors for the entire islands?

Dr. SLOGGETT. Doctors for the entire islands; yes, sir.

Senator BURTON. Paid by the government?

Dr. SLOGGETT. Paid by the government.

Senator BURTON. Now, then, take the place of Waimea, in Hawaii. You know where that is?

Dr. SLOGGETT. Yes, sir.

Senator BURTON. Does that have a government doctor?

Dr. SLOGGETT. I think so. I can tell you in one moment, if there is a man there now, and his salary. The Kohala doctor has the district at Waimea now.

Senator BURTON. Where is Kohala?

Dr. SLOGGETT. It is on the big island, some 30 miles or 40 miles from Waimea.

Mr. W. O. SMITH. Waimea is in South Kohala.

Senator BURTON. Is Kohala on the coast?

Dr. SLOGGETT. Yes; it runs down to the coast.

Senator BURTON. Where does the doctor live? When I get sick over there I want to know where to send for him.

Dr. SLOGGETT. He lives in North Kohala.

Senator BURTON. Does he live in the country?

Dr. SLOGGETT. In the country.

Senator BURTON. Out in the mountains?

Dr. SLOGGETT. A little village.

Senator BURTON. What village?

Dr. SLOGGETT. Waimea.

Senator BURTON. In town?

Dr. SLOGGETT. Town of Waimea.

Senator BURTON. What is his salary?

Dr. SLOGGETT. I think it is \$50; I think he gets \$50.

Senator BURTON. He is allowed to practice as well?

Dr. SLOGGETT. He is allowed to practice as well.

Senator BURTON. What do you want with a government doctor at Waimea?

Dr. SLOGGETT. He is to give free treatment to the poor. In general, the natives. He goes to see them at their houses and supplies them with medicine, and he does that free of charge.

Senator BURTON. That is so all over the islands?

Dr. SLOGGETT. That is so all over the islands.

Senator BURTON. Don't you think the natives would be just as well off if they did not have a country doctor?

Dr. SLOGGETT. Well, many natives are exceedingly poor, sir. It has been the policy here to supply them with medical treatment. It is a very hard thing. In all or most of the communities the poor need a doctor, and the country districts would not support one.

Senator BURTON. What is the aggregate amount of this fund paid to these country doctors?

Dr. SLOGGETT. Forty-two thousand five hundred dollars for the biennial period.

Senator BURTON. I will ask you to look at this letter.

Dr. SLOGGETT. The figures for the two years, the total amount of the appropriation for the board of health, is \$701,620. It has just been added up by the clerk.

Dr. SLOGGETT. Is this letter confidential?

Senator BURTON. No; I suppose it is not confidential.

Dr. SLOGGETT. Because much here is grossly exaggerated. I think this letter itself is enough to show that Father Wendelin was interfering outside of his jurisdiction. That letter alone, I take it, would be cause for his removal.

Senator BURTON. Did you see this letter before?

Dr. SLOGGETT. No, sir. I have never seen the letter before.

Senator BURTON. You have never heard of it.

Dr. SLOGGETT. You handed me the letter last night in the session, but I did not see it.

Senator BURTON. You never heard of it?

Dr. SLOGGETT. I never heard of it, sir; this is the first I knew of it.

Senator BURTON. And you think a letter of that kind is sufficient cause for his removal?

Dr. SLOGGETT. That he is a meddlesome and interfering man is brought out by that letter very clearly.

Senator BURTON. Suppose he thinks that this letter is true?

Dr. SLOGGETT. He may do that.

Senator BURTON. Do you think it would be his duty to write a letter of that kind if he thought it was true?

Dr. SLOGGETT. I don't think so. A letter of that kind should have been addressed to the board of health if he had wished to make charges or complaints.

Senator BURTON. Well, don't you suppose from the information that is contained in this letter that he gave it to others?

Dr. SLOGGETT. Yes; it is very likely that he has given that information.

Senator BURTON. Gave it to the superintendent likely?

Dr. SLOGGETT. I don't know. His relations with the late superintendent were the cause of an immense deal of irritation and friction. He very rarely spoke to him. I hardly know what relations they were. Mr. McVeigh has shown great tact and judgment since he has been there, and a great deal of the friction seems to have passed.

Dr. SLOGGETT (reading):

KALAUPAPA, MOLOKAI, *March 25, 1902.*

Mr. Judge HUMPHREYS.

DEAR SIR: Please be not offended that I, a stranger to you, take leave to write privately to you for advice. The Molokai leper settlement, under the exclusive control of the board of health, needs an impartial investigation.

Senator BURTON. No objection to that, is there?

Dr. SLOGGETT. No, sir.

Senator BURTON. Go ahead.

Dr. SLOGGETT (reading):

Allow me to mention a few doings of the officials which seem to me to be incorrect.

1. The greatest stain of the settlement is the unlawful, but by the board of health tolerated, cohabitation as man and wife of single or married persons.

Senator BURTON. That is true, isn't it?

Dr. SLOGGETT. It is true that people live there unmarried.

Senator BURTON. Go ahead.

Dr. SLOGGETT (reading):

Over 100 of such couples living in concubinage or adultery can be found in this "Iwilei."

Senator BURTON. Are you prepared to deny that?

Dr. SLOGGETT. No, sir; I am not prepared. (Reading:)

The majority of the children born here are illegitimate.

Senator BURTON. Are you prepared to deny that?

Dr. SLOGGETT. I don't say the majority are illegitimate. The number of children born in the past year was 16. One-half of them were illegitimate and the other half legitimate.

Senator BURTON. Then you can't complain very much of the statement in the letter if he came as close as that to it?

Dr. SLOGGETT. No; but the question as to their relations there is a wide one.

Senator BURTON. I know; but the father has stated the facts so far?

Dr. SLOGGETT. Yes; that is a fact.

Senator BURTON. Go ahead.

Dr. SLOGGETT (reading):

The supposed desire to prevent as much as possible the undesirable offspring of leprosy parents should have been enough to induce the authorities to favor morality; but then immorality makes the place attractive to the leper, and, wallowing in the mire, his energy has gone and his possible outcry drowned.

The expression "wallowing in the mire" there and the authorities favoring immorality is very uncalled for. We don't favor immorality. We can't help it. I don't think it is the province of the board of health to compel these people to marry.

Senator BURTON. You can't complain of statements of the father when he says they wallow in the mire and are living in concubinage. According to your own statement, you acknowledge that one-half of the children born there were illegitimate. You certainly can't complain of the statements of the father.

Dr. SLOGGETT. I still think, sir, that he should have confined himself more strictly to his clerical duties.

Senator BURTON. Don't you think it is the clerical duty there to try and prevent concubinage and try to increase the morality of the settlement?

Dr. SLOGGETT. Yes; as a priest I suppose he should do that.

Senator BURTON. What should he do? What else should he do?

Dr. SLOGGETT (reading):

The board of health let things go, and the lepers, whites and natives, with very few exceptions (outside of the two homes), are quite pleased in this Augean stable. Drunkenness receives the same favor.

That is a misstatement. The employees of the board of health do their best to prevent drunkenness. They are constantly trying. They allow no liquor to go into the settlement. They endeavor to prevent smuggling and try to prevent liquor getting into the settlement by every means in their power. That it does get in there, brought probably over the Pali, is known. We have done our very utmost to prevent it. (Reading):

2. The board of health being attacked about the prevalent immorality, claimed that the enforcement of law and the administration of justice belonged to other departments. It should be so, but it is not so. The acting superintendent, the representative of the board of health, is at the same time the (——), by the sheriff appointed head of police in the settlement, hence board of health and police are united in the same person.

Senator BURTON. That is true, isn't it?

Dr. SLOGGETT. I don't see that Father Wendelin can claim that the board of health and the police department are united in that respect. The police and judges are entirely under the attorney-general's department.

Senator BURTON. That is what he says. The attorney-general is also a member of the board of health ex officio? That is not a far-fetched statement, is it?

Dr. SLOGGETT. Well (reading):

Now, how about the judiciary department? There is no judge here; he lives on the other side of this island, and is not allowed to come to the settlement without an invitation of the acting superintendent. The last time the judge was here was in November or December, 1900.

Senator BURTON. Was that true?

Dr. SLOGGETT. I believe that was true; but there was a resident magistrate at the settlement, and the judge only comes over for special cases.

Senator BURTON. Well, go ahead.

Dr. SLOGGETT (reading):

The acting superintendent breaks into houses without a warrant, as the chief of police he arrests persons supposed of being offenders; confines them into prison, keeps them there for months, or as long as it pleases him. The lepers, as a rule, accept such treatment, and what else can they do?

About breaking into houses without a warrant, that is a statement which I can't really contradict. I don't think it is done. I never heard of such a thing.

Senator BURTON. Well, Doctor, you would break into a house without a warrant?

Dr. SLOGGETT. Break into the houses?

Senator BURTON. Went in.

Dr. SLOGGETT. I don't mean breaking in.

Senator BURTON. I don't suppose he means in the sense of burglary at all.

Dr. SLOGGETT. I don't know quite what he means by this about keeping the natives in jail, "and what else can they do." I don't think the chief of police has ever arrested or placed people in confinement.

Senator BURTON. Do you know they have not?

Dr. SLOGGETT. I don't know. This is the first time I have heard of his doing such a thing. (Reading:)

When a leper thinks himself injured by the representatives of the board in matters belonging to that body, and when he complains to the board, the matter in dispute is always referred back to the accused authorities, who become thus judges in their own case.

I presume he himself complained to the board of health. We generally refer to the superintendent for further inquiry, as many of the complaints made against the management of the settlement against the board of health are very frivolous and we have to get at the facts, and our only means is to refer to the authority there.

Senator BURTON. He simply states facts, then?

Dr. SLOGGETT (reading):

The administration of justice requires the presence of legal advisers, etc., and the right to appeal. Without this important but certainly embarrassing right the appointment of a resident judge here in this narrow community under the thumb of the board of health would be a very questionable gain. And should he be a member of this community or a native, the lepers will go to court as often as possible for the fun.

Possibly that is so.

3. Healthy persons (kokua) are allowed to stay with and care for their sick relatives, etc. These persons are forced to work for the board of health where and when the board orders them to work or must leave the settlement.

These few points are enough to give you an idea of the management of this institution. Is it correct, and if not, how can it be remedied? The legislature has failed. Letters when accepted by newspapers attract only the attention of the authorities here for revenge.

That is a very unwarrantable statement. That is to say, he charges the board of health with revenging themselves upon any leper who makes complaint, which is wholly untrue. I think the standing and status of the board of health at present and of previous boards of health is such and known to be such that such a statement as that will not be accepted. (Reading:) "Letters to the board of health go into the waste basket."

Everything that comes down is read in open meeting before representatives of the press.

Senator FOSTER. All filed?

Dr. SLOGGETT. Everything filed. That statement is absolutely untrue. (Reading:)

The lepers are too indifferent, jealous, and greedy to act in harmony. You would do me a favor to give me an idea of what to do, but this matter is strictly private.

Yours, very respectfully,

FATHER WENDELIN.

Senator BURTON. Now, that letter was addressed to the supposed—doubtless Father Wendelin thought he was the presiding judge of that Territory. You so construe it?

Dr. SLOGGETT. Yes.

Senator BURTON. Perhaps he was mistaken as to the judge that did preside over that Territory. It was addressed as a private communication to the highest judicial or one of the highest judicial officers in the Territory. Now, he thought he told statements in that letter which were true. As a Christian gentleman who was trying to do everything in his power to make life easier for these people, don't you think it was warrantable for him to write a letter of that kind to an official of that high standing?

Dr. SLOGGETT. He was, yes; to a certain extent he was; but I think that many of his statements are exaggerated.

Senator BURTON. Now, the communication was in no way made public, was it?

Dr. SLOGGETT. The first I knew of this letter being written was this morning. I knew nothing about the communication until you handed it to me.

Senator BURTON. You mean to say that no government officer spoke to you that Father Wendelin had written a letter of that kind?

Dr. SLOGGETT. No, sir. I never heard of it until this morning.

Senator BURTON. You notice it is dated the 25th of March, and it was right after that that you decided to remove him, wasn't it?

Dr. SLOGGETT. Yes.

Senator BURTON. The circumstances of the time that the letter was written and the action taken by the board of health, wouldn't that suggest that the letter had something to do with it?

Dr. SLOGGETT. Yes.

Senator BURTON. If that letter was shown to a high Government official and he read it, that would also be another circumstance seeming to show that action was taken by reason of the fact that the letter was written?

Dr. SLOGGETT. Yes, I presume so; although, as I say, it is the first I have heard of it.

Senator BURTON. Now, you have not stated anything tangible that the father did. You stated that there was interference, and you stated that his letter was unwarranted interference on his part. Now, that is the most tangible thing you have seen, is it not?

Dr. SLOGGETT. I have been in conversation with the late superintendent of the settlement, and he has made statements to me—put them in writing—of numberless little interferences with the management up there and which justified me in believing that Father Wendelin did not confine himself strictly to his clerical duties, but was on all occasions interfering outside his duties.

Senator BURTON. Can't you tell something about what they were?

Dr. SLOGGETT. Yes, sir; I can. I can produce that right now.

Senator BURTON. Let us see it.

Dr. SLOGGETT. Mr. Reynolds made this statement to me—the late superintendent.

Senator BURTON. Signed by him?

Dr. SLOGGETT. Yes.

Senator BURTON. Made when?

Dr. SLOGGETT. Last March.

January 2, 1898, after the retirement of Ambrose Hutchison, Father Wendelin preached a sermon eulogizing Hutchison, and condemning the management of the settlement, and more especially the superintendent.

. December 16, 1900, Father Wendelin again preached against me in the church because I allowed a general holiday and luau to celebrate the McKinley election. As up to that time he had on various occasions interfered with my assistants, I had an interview with Bishop Gulstan, asking him to write to Father Wendelin and try and stop his interference, as I did not want to lay the matter before the board.

The bishop wrote to him and Father Wendelin came to see me about it afterwards. I asked him if I had stated anything to the bishop which was not facts. He could not state that I had, but said that I had no right to give a holiday on such an occasion and close the store, when I would not do the same on a church holiday.

I asked him if he had suffered from the want of anything from the store on that day. He said no, but that he had seen several parties hanging about the store during the day.

I asked him if he had inquired if they wanted anything out of the store, and he answered no.

I then told him he had better not interfere with the management of the settlement.

On one occasion when Hutchison called a meeting against me, Father Wendelin stood on the veranda and coached Hutchison several times as to what he should say. He has also abused the employees of the office for carrying out their instructions.

About three or four months ago there was great excitement caused after dark one night through Mrs. Feary kidnaping a girl about 8 years of age from the home of her stepfather and taking her to the Bishop Home. On being questioned about it Mrs. Feary stated that she was instigated to steal the child by Father Wendelin. As I found that the child was being cared for well by her stepfather, I ordered the release of the child from Bishop Home next day.

About the same date Father Wendelin got several men together near the store and was blaming me for giving higher wages at the Bay View Home than to those at the Bishop Home, and he has always claimed that I had started the Bay View Home in opposition to the Bishop and Baldwin homes, which is incorrect, as those who take advantage of the Bay View would never have become inmates of either of the others.

There has been such a number of these petty annoyances that were liable to cause trouble at any time that I could only look upon him as one of the principal causes of discord in the settlement.

C. W. REYNOLDS,
Superintendent Leper Settlement.

Senator BURTON. What is the date?

Dr. SLOGGETT. That was dated—not dated. It was given to me in March.

Senator BURTON. In 1898?

Dr. SLOGGETT. March of this year.

Senator BURTON. He speaks of that offense as being 1898.

Dr. SLOGGETT. He goes back to the commencement.

Senator BURTON. That was handed to you shortly after that was received?

Dr. SLOGGETT. About that time. It was during March.

Senator BURTON. Then did you communicate with Father Wendelin?

Dr. SLOGGETT. No, sir.

Senator BURTON. Did the board of health in any way ask him about these facts?

Dr. SLOGGETT. No.

Senator BURTON. That was given about the same time as this letter?

Dr. SLOGGETT. Yes.

Senator BURTON. As a matter of fact, it was given to him after this letter arrived, was it not?

Dr. SLOGGETT. I got that at the end of March or the beginning of April. This letter was written the 25th of March, I see.

Senator BURTON. Now, why didn't you communicate with Father Wendelin after you had heard of these little complaints?

Dr. SLOGGETT. Well, these complaints had been going on previously with previous presidents of the board of health, and they had had considerable trouble with Father Wendelin before. We thought instead of making a general stir or going into the question it was better to ask the bishop to furnish another man.

Senator BURTON. Have you any other statement in writing?

Dr. SLOGGETT. No, sir; I have no other statement in writing.

Senator BURTON. What was done with previous boards of health you got from hearsay?

Dr. SLOGGETT. The former president of the board of health will give you his views more accurately, if you ask him, presently. The position the board of health takes, as I had said before, is this: If anyone in the settlement, in the belief of the board of health, is not conducive to the harmonious working of the settlement it is our undoubted privilege or right to either remove him or revoke his permit and request his withdrawal.

Senator BURTON. That would prevent any kind of investigation at all.

Dr. SLOGGETT. It could do so.

Senator BURTON. If you won't allow the father confessor the privilege of writing to a high officer and judge of this court a complaint of the fact that the majority of the children there are illegitimate and think that a ground of removal, how could you hope that anybody that would go there would dare to make any statement in writing of anything?

Dr. SLOGGETT. That is a somewhat unfair inference on your part that I took that or that the board of health took that position. The fact that Father Wendelin had been for a number of years, in numberless instances, from time to time, reported to the board of health, that under these circumstances when they can not work more harmoniously, that another priest be sent. If any little friction occurred in the settlement matters, surely Father Wendelin could do the same if he wished to. That was the reason we did not make a charge. We did not want to make a charge of these little interferences.

The correspondence between Bishop Gulstan and the board of health is now here, and I should be pleased to read it to you.

HONOLULU, HAWAII, April 15, 1902.

Right Rev. RUPERT GULSTAN, *Bishop of Panopolis.*

REVEREND SIR: By instruction I have the honor to inform you that at a meeting of the board of health held April 14, 1902, the following resolution was unanimously passed:

"Resolved, That the harmony and interests of the leper settlement will be promoted by the removal of Father Wendelin, and that the Right Rev. Rupert Gulstan, bishop of Panopolis, be requested to remove him forthwith and appoint some other priest to fill the vacancy made thereby."

Very respectfully,

C. CHARLOCK,
Secretary Board of Health.

Senator BURTON. Have you the bishop's answer to this letter?

Dr. SLOGGETT. It is as follows:

HONOLULU, April 30, 1902.

C. CHARLOCK, Esq.,

Secretary Board of Health, Honolulu, Hawaii.

DEAR SIR: I have your letter of the 15th instant, informing me that at a meeting of the board of health held April 14, 1902, the following resolution was unanimously passed:

"Resolved, That the harmony and interests of the leper settlement will be promoted by the removal of Father Wendelin, and that the Right Rev. Rupert Gulstan, bishop of Panopolis, be requested to remove him forthwith and appoint some other priest to fill the vacancy made thereby."

I have this day returned from a visit to the island of Kauai. Your letter was forwarded to me there with the explanation that the president of the board of health had promised Father Valentin to withhold publication of the matter until my return to the city. I am greatly surprised to find that it became public property soon after such understanding was given.

A few days before I left the city for the island of Kauai, and before the board of health took the action of which you inform me, the president of the board of health called upon me and in the course of a brief interview suggested that the peace of the settlement would be promoted by the removal of Father Wendelin. I asked if there were any charges against him. The president of the board answered that there were none. I then said to him, "If you were in my place would you remove one to whom we owe love and care without a single charge against him?" The president of the board answered, "No; he could not." and added, "Well, there is nothing for us to do but to exercise patience."

With these facts in mind, you can imagine how great a surprise your letter was to me. I am surprised at the conclusion reached by the board without a single charge before it, and without investigation of any kind so far as Father Wendelin is concerned; and I am more surprised at the peremptory character of the demand upon me, to wit, that I remove him forthwith and appoint some other priest to fill the vacancy made thereby. In the public reports of the action of the board in the case of the persons who were found guilty of offenses of the gravest character the board did not order them removed, and forthwith, but fixed May 1 as the time for them to retire, giving them nearly two weeks' notice that they must leave the settlement, and yet I am asked to remove forthwith a priest of God who, for fifteen years of the best of his life, has labored among an outcast people, giving them sympathy and comfort and pointing them to the divine Son of God; who, when others shrunk away, touched the leper and spoke to him words of healing and of cheer; a priest who is dearly beloved by these unfortunate people whom he has served in a spirit of self-sacrifice all these years.

For a quarter of a century the leper settlement has been included in my diocese. The government having permitted me to establish a mission there, to erect church, school, and residence buildings, has never before sought to supervise my work, to order me to remove and to appoint at its will; and I can not become now a party to this new departure by consenting to carry out the order of the board for the removal of a priest against whom there is no charge. True, the board has control over the matter of issuing permits to persons to visit and to remain at the settlement, but I believe that this power is given it mainly for the protection of the public health. I do not believe that it was intended that this power should be used to suppress the freedom of anyone in the church of God who has the authority and the duty to select and who, for over a generation, has had permission from the government to send teachers and preachers of righteousness into the settlement.

While believing that I have a right, under the original entry, and permission to remain untrammelled in my appointments to the leper settlement and in my removals therefrom, yet I am willing and ready to remove any worker connected with my church against whom any charges can be proven affecting his character or his usefulness. If Father Wendelin is guilty of any offense against the peace or prosperity of the settlement, I earnestly desire the board to formulate charges and prove them; and no one will act more heartily or more quickly than I in taking such action as will promote the good of the settlement; but I can not comply with the board's resolution, as now communicated to me, to remove Father Wendelin, because it would be doing a wrong to a presumably innocent man.

Very respectfully,

GULSTAN, *Bishop of Panopolis.*

We replied to that in the following letter:

HONOLULU, HAWAII, *May 7, 1902.*

Right Rev. RUPERT GULSTAN,

Bishop of Panopolis, Honolulu.

RIGHT REVEREND SIR: In answer to your communication of the 30th day of April, 1902, the board, having taken the same under consideration at a board meeting held on the 7th day of May, 1902, in Honolulu, beg to submit the following points:

The board having determined that the welfare and harmony of the leper settlement would be promoted by the removal of Father Wendelin, has not, out of courtesy to the Catholic mission, and in appreciation of the good the mission is doing generally at the settlement, exercised its own powers of removal, but has requested yourself, the superior of Father Wendelin, to do so. In answer to the

request you have refused to remove Father Wendelin, who is persona non grata to the board. The board is therefore driven to the only remaining alternative—the exercise of its own powers.

This would end matters were it not that you have made certain statements in your letter which ought to be answered lest grave and serious misunderstandings and uncertainties follow hereafter. It should be clearly pointed out, therefore, that the board of health has been, is, and continues to be, sole judge of what is for the harmony and good government of the settlement and is amenable in its actions only to the governor and the legislature of the Territory, and to no other superior.

By law the board is vested with a very wide and complete power over every person at the settlement, with good reason, too, for if under any circumstances whatsoever such person may be put in issue the object of the settlement segregation is defeated. If any person for any reason whatsoever, at any time or under any conditions, can say to the board of health, "You can not exercise this power in this case," the power of the board to enforce complete segregation is defeated. The statute therefore wisely provides:

"No person, not being a leper, shall be allowed to visit or remain upon any land, place, or inclosure set apart by the board of health for isolation and confinement of lepers without the written permission of the president of the board or some officer authorized thereto by the board of health under any circumstances whatever, and any person found upon such land, place, or inclosure without a written permission shall, upon conviction thereof before any district magistrate, be fined in a sum not less than \$10 nor more than \$100 for such offense, and in default of payment be imprisoned at hard labor until the fine and cost of court are discharged in due course of law." (P. L., sec. 992.)

Not only is the board vested with the discretion and authority, but the statute is so explicit and the charge of such a public nature that the board can in no manner waive either the discretion or authority or means of carrying out the same.

You state in your letter that you have been "permitted" to establish a mission at the settlement, a church, school, and residence buildings, and to send teachers and preachers there. The fact that you are "permitted" seems to be only partially understood. It should be pointed out, therefore, that the Catholic Mission can never get away from the fact "that it is permitted;" that it can not acquire any right except subject to permission, and also that there can be but one authority at the settlement—the authority of the government of the Territory of Hawaii. Any encroachment of this authority, or upon the board's control of the settlement and property, however slight, should be met by measures on the part of the government and of the board of health conformable to the nature, importance, and insistence of such encroachments.

You contend that we can not ask you to remove Father Wendelin without charges. You can make yourself the judge of whether we ought to dismiss Father Wendelin? We submit not. Such would be an interference with our discretion which we believe you surely would not seriously contemplate. It is sufficient if the board states to you that your subordinate is no longer a desirable person at the settlement from the standpoint of the board of health. Upon such statement it is then a matter of your own choice whether you will not accede to the board's request.

Before the board is Father Wendelin entitled to have charges preferred and proved? He is not an employee of the board, nor is he a kokua at the settlement. By the statute kokuas may only be persons who are husbands or wives of lepers segregated at Kalaupapa. (P. L., 330.) He is simply a person allowed to visit and remain at the settlement just so long as his residence there is acceptable to the board, and in their opinion conducive to the welfare of the settlement.

In this case the conclusions and acts of the board as to dismissal are within authority conclusive, final, and legal, and, moreover, are technically and morally in conformity with the responsibility of the board in the government and control of the lepers placed under charge, and with the duty to raise and ameliorate their condition. Otherwise, persons with the best of intentions, with the sincerest of convictions, technically confining themselves within the sphere of their own duties, and honestly striving to better their condition, yet creating, perhaps unconsciously and involuntarily, an influence impairing harmony and good government, are out of the reach of those whose business and duty it is to care for that harmony and good government.

Father Wendelin is a volunteer in a work which calls for a great deal of self-denial, restraint, and nobility of purpose, nevertheless it is not by that self-denial, restraint, and nobility of purpose that he must be judged, but by the effect of his

work. Persons of the best of intentions are capable of doing harm, though perhaps they do not mean to. So it is that the board did not and does not intend to cast any reflections upon the personal attributes of Father Wendelin, but find only that his removal from the settlement would promote the harmony and good government thereof.

The work of self-sacrifice and Christian ministration done by the members of the Catholic mission at the settlement calls forth the commendation not only of the board of health and of the government and the people of the Territory, but of the whole world. Toward them as engaged in this work the board can not help entertaining the kindest feelings of respect and of confidence. For this reason few, if any, cases of interference or supervision by the board in the work of establishing the mission, erecting the churches, schools, and residence buildings have occurred in the period mentioned in your letter, and yet the relationship between the mission and the board has always been clear. As volunteers in this work the mission has been and now is allowed and even invited to use a free hand to erect churches, schools, and residence buildings and to do all in its power to ameliorate the condition of those restrained at Kalaupapa; and its work has been, is, and always will be respected. Nevertheless the power of the government of the Territory, through its duly authorized officials, to be the sole judge of the effect of such work in relation to the harmony and good government of the settlement has never been and never can be questioned, nor the fact that the mission is at the settlement by "permission."

I have the honor to be, your most obedient servant,

C. CHARLOCK,
Secretary Board of Health.

Senator MITCHELL. How long after that did you decide to keep Father Wendelin?

Dr. SLOGGETT. We are coming to that, sir. On May 13 the bishop answered this letter that I have now read to you.

HONOLULU, May 13, 1902.

To the Honorable Board of Health, Territory of Hawaii.

GENTLEMEN: There seems to be a misunderstanding as to my contention in regard to the retention of Father Wendelin at the leper settlement. I have not, in my letters or in public expression, contended that the board of health has not the power to remove him or any other mission at its will. I admit that the power is vested in the board of health, but to me it seems unjust that Father Wendelin (or any other member of the mission) should be removed without it being first established that by some overt act he has demonstrated his unfitness to remain at the settlement, and therefore while conceding the power of the board of health in the premises I could not, in the absence of proof of his unfitness, consent to be a party to his removal.

I say now, as I have said before, that if by his actions at the settlement he has become a discordant element and those actions are brought to me, I shall feel it my duty to cooperate with the board of health in bringing about his removal.

In view of his long and faithful services at the settlement, in pursuance of work to which he has devoted the best years of his life, I request that Father Wendelin be retained.

Very respectfully, yours,

GULSTAN RUPERT,
Bishop of Panopolis.

On May 14 we answered this letter:

HONOLULU, HAWAII, May 14, 1902.

Right Rev. RUPERT GULSTAN,
Bishop of Panopolis, Catholic Mission, City.

REVEREND SIR: Your letter of May 13, 1902, has been considered by the board, and I am instructed to reply that your request to the board to retain Father Wendelin has been acceded to by the majority of the board, they having passed the following resolution on the subject. A copy of the same is herewith inclosed.

I am, right reverend sir, your obedient servant,

C. CHARLOCK,
Secretary Board of Health.

RESOLUTION.

Whereas the bishop of Panopolis has acknowledged in a letter to the president of the board of health, dated May 13, 1902, the power vested in the board of health to remove at its will Father Wendelin or any other member of the mission, and

has also stated that if Father Wendelin, by his actions at the settlement, has become a discordant element, and those actions are brought to himself, he should feel it his duty to cooperate with the board of health in bringing about Father Wendelin's removal; and as also stated that, in view of the long and faithful services at the settlement, to which Father Wendelin has devoted the best years of his life, he requests that Father Wendelin be retained; and

Whereas the relation between the bishop and the board of health has always been of the most cordial nature, of which the board has received an additional assurance in the bishop's offer to cooperate with the board as far as lies in his power:

Be it resolved therefore. That out of respect to the bishop and in appreciation of the charitable objects of the Catholic mission at the settlement, this request be granted on the distinct understanding that Father Wendelin attend strictly to his clerical duties in the future, and the bishop is hereby requested to so address him

Furthermore, that it be clearly understood that, in the judgment of the board solely, any influence against or interference with the board's agents, or the management of the settlement by any person or persons whatsoever who may have the board's permission to reside at the settlement, will be sufficient cause for the summary withdrawal of such permission in the discretion of the board; and, further, that we renew to the bishop our hearty appreciation and friendship.

That concluded the whole thing and Father Wendelin is still there.

Senator BURTON. At the time this correspondence was going on you had the statement of the superintendent?

Dr. SLOGGETT. Yes.

Senator BURTON. You did not show it to the bishop?

Dr. SLOGGETT. No.

Senator BURTON. And though requested by the bishop and asked if you had any charge to make, you declined?

Dr. SLOGGETT. We declined.

Senator BURTON. You noted the correspondence of the bishop in which he emphasizes that fact, did you not?

Dr. SLOGGETT. Yes.

Senator BURTON. Now, Doctor, what did you tell the bishop Father Wendelin had done?

Dr. SLOGGETT. I have already, in that letter in which I answered the questions, stated to the bishop why we preferred no charges. I stated very clearly in that letter. I can only repeat what I said in that.

Senator BURTON. You can't give anything else?

Dr. SLOGGETT. That entirely expresses my views and the views of the majority of my colleagues. We certainly were within our rights, and we claim the right to remove anybody from the settlement that we think fit. They are only there by our permission.

Senator BURTON. Well, the writing of a letter like this Father Wendelin wrote to Judge Humphreys is, you say, ground for removal?

Dr. SLOGGETT. I say now, as I stated to you, it was really more than anything else an indication of Father Wendelin's actions right along. He has constantly been—there has been friction there for a long period. When we dismissed Mr. Reynolds and Dr. Oliver in the interests of harmony of the settlement we made a clean sweep and got a new start up there.

Senator BURTON. Is not the friction born of the fact that the father is earnestly protesting against the permission of the board of health to allow illicit cohabitation?

Dr. SLOGGETT. No, sir; I think not. There were numerous other little causes.

Senator BURTON. That is the principal charge in his letter, I see?

Dr. SLOGGETT. Yes; it is the particular charge in his letter. It rather comes as a surprise to me that Father Wendelin has written

that letter. I don't know that he had expressed himself in any way on that ground before. It is the first I knew of it.

Senator BURTON. Well, are you on intimate relations here with the government officials, high government officials?

Dr. SLOGGETT. No, sir; I can't say that I am, except in an official capacity. My relations are those of a head of a department to the others. I can't say that I am on an intimate footing with them at all.

Senator BURTON. If that matter was handed to one of the high government officials, and consultation was had about what to do about it, and all these actions following immediately after it, it would naturally lead to inquiry, would it not?

Dr. SLOGGETT. Yes; as I told you, it is the first I heard of this letter.

Senator BURTON. Does your board give any bond?

Dr. SLOGGETT. No.

Senator BURTON. You have at your disposal \$701,620?

Dr. SLOGGETT. We have no direct handling of it.

Senator BURTON. It is made out on your warrants?

Dr. SLOGGETT. It goes to the auditor's department and then to the treasurer's.

Senator BURTON. It is paid on your warrants, is it?

Dr. SLOGGETT. Yes, sir.

Senator BURTON. You pay out in that way—you draw for it?

Dr. SLOGGETT. Yes; but our warrants have to receive the approval of the auditor before we can pay.

Senator BURTON. I know that. You decide in the first instance what the money shall be paid for?

Dr. SLOGGETT. Yes, sir.

Senator BURTON. Any amount of money is paid out practically on the orders of the board of health?

Dr. SLOGGETT. Yes.

Senator BURTON. You order it?

Dr. SLOGGETT. I order it.

Senator BURTON. I want to turn now to another subject. You have no other communications relative to this?

Dr. SLOGGETT. None whatever; the incident is closed.

Senator MITCHELL. Have the services of Father Wendelin at the settlement been satisfactory since his retention?

Dr. SLOGGETT. There has been no complaint made, sir, in reference to Father Wendelin at all. As far as I know he has been quiet.

Senator BURTON. Just one more question. Were you on the board of health at the time of the bubonic plague?

Dr. SLOGGETT. The last one, three years ago? I presume you mean at the time of the fire?

Senator BURTON. Yes, sir.

Dr. SLOGGETT. No; I was not a member at that time.

Senator BURTON. Who was on the board at that time?

Dr. SLOGGETT. Dr. C. B. Wood, Dr. Day, Dr. Cooper, Mr. Haston, Mr. Lowrey, and George W. Smith, I think, made it, with the attorney-general ex officio, as now. That is all I wish to state, except to renew the invitation of the board of health to visit the settlement yourselves and see the condition of affairs there for yourselves. We should be pleased to have you. There is nothing to be afraid of, sir. Everything to be done to insure your safety, sir. We would very much like to have you see it. You can learn more at the settlement in half an hour than you can here all day.

Senator BURTON. We are very much obliged. We will take it under consideration.

E. TAPPAN TANNATT, sworn.

Senator MITCHELL. State your name, age, occupation, and residence.

Mr. TANNATT. Name, E. Tappan Tannatt; age, 38; occupation, civil and electrical engineer; residence, Honolulu.

Senator MITCHELL. Mr. Tannatt, how long have you lived in the islands?

Mr. TANNATT. I came here in August, 1898.

Senator MITCHELL. Been here ever since?

Mr. TANNATT. Been here ever since; yes, sir.

Senator MITCHELL. What have you been engaged in?

Mr. TANNATT. Following my profession exclusively—civil and electrical engineer.

Senator MITCHELL. In a private capacity?

Mr. TANNATT. In the capacity of chief engineer Wialua Agricultural Company, later on managing engineer Oahu College trustees, and now in a private capacity.

Senator MITCHELL. Are you acquainted with the labor conditions in these islands?

Mr. TANNATT. I am.

Senator MITCHELL. You addressed a communication to the commission, is this it?

Mr. TANNATT. Yes, sir.

Senator MITCHELL. State whether the statements of fact referred to in your communication are true.

Mr. TANNATT. They are. I should be pleased to take the time to read that to the commission.

Senator MITCHELL. You can read it.

Mr. TANNATT. Before doing so I wish to state, in connection with my communication to this honorable committee, in order that they may fully appreciate the point of view from which I view the situation on these islands, that I am and ever have been strongly opposed to bringing into the United States any class of people who will tend to lower either our moral standard or to establish in any community a class which either can not or will not become citizens. With this idea, I also believe that it is unwise to apply revolutionary methods to any existing condition until after we have exhausted all reasonably conservative plans and permitted the people to do by local means what, under some circumstances, might require stringent measures. I believe in a compromise only so far as we can safely go without injury to our citizens and country; and in making the recommendations that I do, I do so in the belief that at this time it is necessary to compromise the situation until such a time as we can ascertain beyond doubt that the sugar interests of these islands do not intend to accept American laws and customs. If, upon trying this compromise, the plantations continue to insist upon the general use of Asiatic labor, I believe both the citizens of Hawaii and the Congress of the United States will not be slow in finding a proper and speedy remedy, even if it must result in the absolute disintegration of every sugar corporation.

In reading my letter, I wish you to bear in mind that my suggestions apply only to the immediate future, and should your honorable committee find in their investigations that the plantations intend to continue the present system, in open violation of American principles,

then I would wish to be understood as favoring the absolute exclusion of oriental labor, and even if by so doing it involved the segregation of every plantation on these islands. If the Stars and Stripes are not sufficiently broad to cover these plantations without a sacrifice of American principles, then I should say, as my ancestors did to slavery, let the evil be abolished.

In another matter, although I have listened with interest to the witnesses who have come before you, I yet fear your honorable commission will never fully appreciate the local situation, inasmuch as it is dangerous to our financial and social position to publicly express or advocate any opinion or principle which may be considered antagonistic to those in authority and the sugar interests of the islands. This I know from personal experience, and I believe and know that many who desire to speak will not do so for fear that by so doing they will injure their abilities to earn or jeopardize their positions. If you arrive at the true situation on these islands you will do so only by being assisted by men who place love of country in advance of financial interests and who have sufficient confidence in your honorable commission to trust that through you or your influence a way will be speedily found to grant them their full rights of citizenship and action.

SEPTEMBER 15, 1902.

The Honorable COMMISSION UNITED STATES SENATE,

Honolulu, Hawaii.

GENTLEMEN: As you have requested information relative to the conditions of these islands, and opinions of interested citizens, I feel it my duty as an American citizen and a citizen of Hawaii to place before you the results of my investigations, based upon some four years of careful study and examination of local conditions.

Having come to these islands in the service of my country, I was naturally struck with the peculiar cosmopolitan population and became interested in the study of the application of Americanism to these islands. Accepting the position of civil engineer for the Waialua Agricultural Company, Limited, at the time of its organization, I was from the first placed in an excellent position to study the labor situation, the natural resources of the country, and to know from personal observation the difficulties the plantations have to meet in the development of the island resources. Later, having removed to this city, I have been in a position to know of the existing conditions in Honolulu, and also on other plantations, both from a business and social point of view.

Although I realize that there are many questions which will come before your commission which are of great importance to these islands and their people, at the same time I feel that there is no one question of more vital importance than the labor question, as on it, I believe, all other questions ultimately hinge, and that if it is once settled for the best interests of the islands all other questions will in time adjust themselves. So strongly do I believe in the value of American institutions and the American vote to remedy existing evils, that I feel if conditions on these islands are placed on such a basis as to justify the laboring classes of the United States to remove to these islands, that the American vote will in time adjust in a large measure the evils which exist.

The avowed policy of the plantations, for which they have gone to great expense, is the employment of cheap labor in the production of sugar. So thoroughly has this system been installed on these islands that to immediately remove the Asiatic labor from our cane fields would result in almost the entire destruction of the plantations; in fact, it is my opinion that even if Hawaii is developed along American lines and the sugar plantations eventually arrange to form communities of American sugar raisers about a company mill, and protected by controlled (corporation) water supply, that this change must come naturally and slowly and that the Asiatic laborer in the cane fields may never be wholly eliminated from the islands. To entirely cut off Asiatic labor from the plantations would be suicidal to the country. At the same time I consider that the present policy, or an uncontrolled importation of Chinese, is and would be equally destructive to the future interests of the islands.

Being an ardent enemy to Chinese importation into the United States, I am even more opposed to the importation of Japanese laborers, as I consider the latter far

more dangerous in every way. The Japanese in comparison with the Chinese are more aggressive, almost entirely without ideas of honor or morality, and much more apt at imitation and learning American ways and trades. At the same time, they have an equal ability to exist on the smallest stipend; hence are a more potent enemy in driving out American workmen and homes.

Taking this all into consideration and also the local conditions, I advocate the employment of Chinese and Japanese laborers in our cane fields. I include both nationalities, as the influence of the one over the other has a tendency to keep both on an even basis and avoids constant demands for favors. However, I believe that this should not be permitted unless a law is passed which prohibits absolutely the employment of Asiatics by the plantations in any capacity outside of actual field hands or interpreters. To-day your honorable commission will, upon examination, find hundreds and thousands of Asiatics engaged in walks of life which beyond question can be filled by American workingmen, but not at Asiatic prices. You will, upon investigation, find in nearly every plantation that one or two white men are employed as supervisors in the mills, shops, stores, or pump plants, while under them and directly in charge of boilers, engines, and machinery are Asiatics who know absolutely nothing of the machines more than they have picked up by observation and imitation; and yet these men are preferred to the American workingman.

I believe that if these islands were permitted to import Asiatic laborers into their cane fields upon the consideration and guaranty under heavy bonds that they would employ such laborers only in the cane fields and in the actual raising and transportation of cane, and that all other positions should be filled by American citizens, that your honorable body would be immediately met with the demand that they must have the Asiatics to operate their mills and machinery as well. I believe that if the plantations were permitted to import a sufficient number of Asiatics to work in their fields, and that a law be made requiring their immediate deportation upon ceasing so to work in the fields, that the rest of the evils that are annoying our citizens would cease, providing the law was made to prohibit the employment of the Asiatics here otherwise than as suggested above. American citizens would come to these islands to accept positions now held by Asiatics. American votes would soon remedy existing evils and would demand of the present oligarchy the right of local self-government. American votes and brains would in time find ways and means to continue the profitable development of our resources, and at the same time leave room for American homes and schools. In this relation, I believe it should also be required of the Government or the plantations to furnish free schools for their Asiatic employees, and that the public schools on the plantations be kept as far as possible for the children of American citizens. I do not believe that the average American workman will consent to try to build up the low morality of an Asiatic community through the instrumentality of his little children, and I do not consider that the teachings of Asiatic morality are safe elements in our public schools. The low standard of morality on our plantations is ample proof of this condition. At the present time and in the past our plantations are and were obtaining laborers from Japan, who are content to work on the plantations only until such a time as they can "pick up" a slight knowledge of English and some trade; then they remove to our cities or to the United States, to give place to a fresh invoice and to enter into direct competition with American citizens. To-day our plantations are but extensive training schools to educate the Japanese to compete with American workmen, and the term of instruction is limited by the student himself. This can be easily ascertained by your honorable commission, as you will find ample proof on every hand, and will find that nearly every clerk, mechanic, or machinist among the Japanese came to these islands as plantation field hands.

In further support of this statement permit me to refer you to the recent editorials in both the Bulletin and Advertiser, where they admit that the Americans and Hawaiians have both been run out of the fishing business of these islands and the markets monopolized by Asiatics.

What these islands lack more than any one thing is a larger proportion of patriotic American citizens. We can not expect the Hawaiian to feel loyal to our flag at this time, especially when he sees his means of support being turned over to imported Asiatics. He is naturally prejudiced against us, and yet if we Americans give to him all the rights of American citizenship I believe that the time is not far distant when he will love the Stars and Stripes as much as ever he did his native flag.

We also have among us a large number of business men who are neither citizens nor loyal to our flag, and also many who would use its folds for personal aggrandizement. The increase of the proportion of American citizens will decrease

the power of these classes and will place the conditions in Hawaii on a surer and better basis.

The average American laborer can not now live in Hawaii and keep his family surrounded by conditions equal to those he finds at home. If he is satisfied in having his children made associates and companions of Asiatics and be willing for them to marry Chinese and Japanese and to come under their influence, he can do so and live, but if he values his home and the future of his children he can not live here and pay his expenses unless he is a man of more than ordinary ability to earn. To the average American workingman of Hawaii is left one of two choices—either to fall more or less to the level of the Asiatic or to live beyond his income.

I contend that a restricted immigration law, both for Chinese and Japanese field laborers, made specially for these islands, and possibly our other insular possessions, and a strict law compelling plantations and public works to employ only American citizens in every department save as field hands will remedy the evil very rapidly and at the same time protect the plantations and give ample labor for all work. The increase of the American community would in time require our stores and shops to seek for American patronage by the employment of American clerks in the same manner as they now solicit Asiatic custom.

Trusting that the above may prove of some little assistance in directing your investigation, and that the same prove of value to my country and your honorable body, I remain,

Yours, very respectfully,

E. TAPPAN TANNATT.

Senator BURTON. What is your native country?

Mr. TANNATT. My native place is Massachusetts.

Senator BURTON. How old are you?

Mr. TANNATT. I am 38 years of age.

Senator BURTON. What is your business?

Mr. TANNATT. Civil and electrical engineer.

Senator BURTON. How long have you lived in the islands?

Mr. TANNATT. Since a day or so after the flag raising, August 17.

Senator BURTON. What are you doing?

Mr. TANNATT. Still a civil engineer employed by the Waialua Agricultural Company only through their work in my office. I am not a salaried employee.

Senator BURTON. You have an office here in the city?

Mr. TANNATT. Yes, sir.

Senator BURTON. You advise Chinese immigration under a carefully restricted system, for agricultural purposes only?

Mr. TANNATT. Allowing them to be employed as field hands only, yes, sir. If we take from Hawaii to-day, remove the Asiatics, it would be absolutely impossible to run the plantations.

Senator BURTON. If the Chinese were prohibited from coming for field hands only, that would have a tendency to regulate the Japanese?

Mr. TANNATT. Yes.

Senator BURTON. You think that the plantations are schools for the Japanese to graduate from into other departments?

Mr. TANNATT. Yes.

Senator BURTON. Then as a practical measure, having knowledge of the truth about the Japanese, you would favor restricted Chinese immigration?

Mr. TANNATT. Provided a restricted Japanese immigration, still controlling the trade.

Senator BURTON. But suppose you can't restrict the Japanese, would you still favor Chinese restricted immigration?

Mr. TANNATT. For field hands alone, I would.

Senator BURTON. White men can not work in the fields?

Mr. TANNATT. They will not work beside the Chinese.

Senator BURTON. Even if there were no Chinese, would they?

Mr. TANNATT. I have worked in the harvest fields in the Northwest myself. I was brought up on a farm; my father is at present a farmer in the Northwest. I consider this working in the cane fields no more fatiguing. On the mainland farmers work hours with the temperature from a 16-horsepower thrasher at 115°. The hours here are shorter. We work there from sunup to sun dusk.

Senator BURTON. There are different conditions here in the way of climate. It lasts all the year.

Mr. TANNATT. At the same time I have followed my profession here for four years, and I believe I have worked as hard as the average professional man on the mainland, and still have good health.

Senator FOSTER. Have you ever done any work for the plantations?

Mr. TANNATT. I have.

Senator BURTON. You think the best way to balance Japanese immigration is to allow restricted Chinese immigration?

Mr. TANNATT. It is simply a temporary measure to allow the plantations to import Chinese.

Senator FOSTER. Did you say you are working now for the company?

Mr. TANNATT. Yes, sir; I am now under contract with the Waialua Agricultural Company to construct a large reservoir and some development of mountain waters. It is the same company I work for as engineer.

Senator FOSTER. Have you worked on other plantations?

Mr. TANNATT. Not as employee, but only as the work would come to the office from the plantations.

Senator FOSTER. Ever had any trouble with any of the plantations?

Mr. TANNATT. None whatever. All the trouble I have ever had in Honolulu came from expressing my opinions; none whatever with any of the planters.

Senator FOSTER. Daring to express a policy?

Mr. TANNATT. Daring to express laboring classes' opinions on them in public meetings I have had trouble here, but otherwise none.

Senator BURTON. Do you know of anyone that is deterred from coming here before this commission by reason of any debt of fear?

Mr. TANNATT. I know of men who have said that they would not dare to come before this commission because if they did it would be a loss of their positions on these islands. That I know personally.

Senator BURTON. You don't feel free to give their names?

Mr. TANNATT. I would not dare to give their names.

Senator BURTON. What is there that would injure anybody that could be found out here?

Mr. TANNATT. I can answer that question in this way: I accused a person here in this town of carrying on a systematic boycott against myself personally. His answer was, "I don't believe that any systematic boycott is being carried on against you. We reserve the right to employ people that are in sympathy with our interests, and if they are not in sympathy with our interests and somebody else applies for the position who is, the position will be given to those in sympathy." In carrying that out, those who are not in sympathy will simply fail to get positions.

Senator MITCHELL. It is pretty much the same way everywhere.

Mr. TANNATT. Not to the extreme practiced here.

Senator MITCHELL. Do you anticipate any ill effects from the fact that you came before the commission?

Mr. TANNATT. I would not be surprised.

Senator MITCHELL. In what way?

Mr. TANNATT. I would not be surprised if it would affect my financial interest here alone.

Senator FOSTER. Do you belong to any labor organization?

Mr. TANNATT. I do not.

Senator BURTON. I want to get a little more information as to the fears that you apprehend, if you can state, with regard to the administration or fears in the islands with regard to the financial conditions here.

Mr. TANNATT. Well, they are so thoroughly linked together that one applies directly to the other.

Senator BURTON. These that are deterred from coming, is it about the administration of the government that they would speak, or about something else?

Mr. TANNATT. The person who spoke to me would not speak about government officers.

Senator BURTON. What about?

Mr. TANNATT. Local conditions existing here, of which he has likewise suffered from the same effects.

Senator BURTON. Well, it is local conditions that you have detailed in your paper there?

Mr. TANNATT. Yes.

Senator BURTON. Do you think there is anything in that paper that would cause anybody to try to hurt you?

Mr. TANNATT. That is antagonistic, sir, to the present interests of the plantations, although I consider, knowing what I do of American principles and American laws, that it is the only thing they can do.

Senator MITCHELL. When you recommend restricted immigration of the Chinese, is that in the general interest of the plantations?

Mr. TANNATT. This is restricted; does not really comply with what the plantations wish.

Senator FOSTER. You insist that they should work in the field?

Mr. TANNATT. In the field absolutely.

Senator FOSTER. All other skilled labor for the whites?

Mr. TANNATT. All other skilled labor the whites can do.

Senator BURTON. Millwork?

Mr. TANNATT. Millwork, pumps, traction engines, steam plowmen, firemen, in any capacity outside of actually watering, planting, cutting, and stripping of the cane.

Mr. W. O. SMITH. You would not include domestic service?

Mr. TANNATT. I believe domestic service should be included.

Mr. W. O. SMITH. You would exclude domestic service even?

Mr. TANNATT. I would exclude domestic service even. I believe in time the question would be settled by families coming here who would be glad to furnish assistants in private families. We would have German and Portuguese employed. If they did not have to work beside Japanese servants on the same level, they would do the work.

Mr. W. O. SMITH. Haven't the Chinese, wherever they have gone, done much to settle the domestic service difficulties?

Mr. TANNATT. I could not speak of that question.

Mr. W. O. SMITH. Are you aware that under the laws which existed here before annexation that only Chinese immigration was allowed to come in with restrictions to field work, millwork, and domestic service?

Mr. TANNATT. I am also aware that they tried—that a petition was circulated to condemn absolute exclusion before annexation.

Mr. W. O. SMITH. You mean before the organic act was passed. The only distinction is that you would restrict them from mill service.

Mr. TANNATT. Restrict them from all service outside actual field hands on the plantations.

Mr. W. O. SMITH. The law provided for these three kinds of work. Upon leaving any one of these the man was imported back to his own country under pain of punishment here. Field work, millwork, and domestic service.

Senator BURTON. When was that law passed?

Mr. W. O. SMITH. Passed, I think, in 1893 or 1894, and it was in force up to the time that the organic act came in.

Mr. TANNATT. Is that rule applied to-day in any sense whatever on the plantations?

Mr. W. O. SMITH. No. Since annexation the United States exclusion act is in force. The Japanese can't be restricted to anything any more than Europeans. The only difference in our standpoints is that you would restrict to field hands alone.

Mr. TANNATT. I believe that in case Asiatic restricted immigration is granted to the plantations of these islands, that in return for this right they should agree that they would not employ Asiatics except in the cane fields; that that would regulate the matter.

Mr. W. O. SMITH. I think that is well worthy of consideration.

Mr. TANNATT. If the plantations will assure the United States that they will not employ Japanese or Chinese except as field hands, then the United States to grant limited immigration to the Chinese.

F. D. McVEIGH, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. McVEIGH. F. D. McVeigh; 44 years old; Honolulu; superintendent of the leper settlement.

Senator MITCHELL. How long have you been superintendent of the leper settlement?

Mr. McVEIGH. Almost five months. Since the 1st of May.

Senator MITCHELL. Business here engaged in prior to that?

Mr. McVEIGH. Agent of the board of health.

Senator MITCHELL. How long were you agent of the board of health?

Mr. McVEIGH. Since 1892, with the exception of two years in the marine hospital.

Senator MITCHELL. What were your duties?

Mr. McVEIGH. Sanitary officer in town and at the quarantine station.

Senator MITCHELL. By whom appointed?

Mr. McVEIGH. By the board of health.

Senator MITCHELL. How long have you resided in the Territory?

Mr. McVEIGH. I have been in the Territory twenty-five years next month.

Senator MITCHELL. Where were you born?

Mr. McVEIGH. Born in Canada.

Senator MITCHELL. Been in the service of the board of health, then, how long?

Mr. McVEIGH. Since 1892.

Senator MITCHELL. First as agent?

Mr. McVEIGH. First as agent in charge of the quarantine station and since last May in charge of the leper settlement.

Senator MITCHELL. How many lepers are there in that settlement now?

Mr. McVEIGH. On September 9 there were 858.

Senator MITCHELL. Of the present month?

Mr. McVEIGH. Yes.

Senator MITCHELL. How many of these are men?

Mr. McVEIGH. Five hundred and fifteen males, 334 females. The children under 10 years, 5 males and 4 females. Total, 858.

Senator MITCHELL. Are a great number of the bulk of this population over 21 years of age?

Mr. McVEIGH. Yes, sir.

Senator MITCHELL. State the nationality of these people as near as you can.

Mr. McVEIGH. Well, we have—of course I can't give you the exact figures.

Senator MITCHELL. As near as you can.

Mr. McVEIGH. We have 3 Americans. This is in 1899

Senator MITCHELL. That is, 3 men or women?

Mr. McVEIGH. Males—men.

Senator MITCHELL. No American females?

Mr. McVEIGH. No, sir. We have 4 Germans.

Senator MITCHELL. Males or females?

Mr. McVEIGH. Four German males and 2 females German and 1 French Canadian. We have 1 American negro as well and 1 Austrian. That completes the foreigners that we have there; that is, the white foreigners—no, we have some Portuguese there as well. We have 1 Portuguese man and 3 Portuguese boys under 21 years old that are now in the Baldwin Home. Then we have 29 Chinese.

Senator MITCHELL. Men or women?

Mr. McVEIGH. Twenty-seven males and 2 females, 2 Chinese females, and 11 Japanese, all males.

Senator MITCHELL. And the balance?

Mr. McVEIGH. The balance all Hawaiians.

Senator MITCHELL. Pretty equally divided, men and women?

Mr. McVEIGH. No; a large majority of males.

Senator MITCHELL. A large majority of males?

Mr. McVEIGH. Males 515, females 334.

Senator MITCHELL. Are the males and females permitted to cohabit there?

Mr. McVEIGH. Yes, sir; outside of the homes.

Senator MITCHELL. Outside of the homes? What do you mean by the homes?

Mr. McVEIGH. The Baldwin Home for males. There are 134 males in the Baldwin Home.

Senator MITCHELL. That is in the settlement there?

Mr. McVEIGH. Kalauwao and Kalaupapa make two villages there.

Senator MITCHELL. Why is this?

Mr. McVEIGH. The original settlement was at Kalauwao. Afterwards, as the settlement increased, it was taken over to Kalaupapa, which is now the principal settlement.

Senator MITCHELL. How many over there?

Mr. McVEIGH. At Kalaupapa?

Senator MITCHELL. Yes.

Mr. McVEIGH. We have in Kalaupapa, there is about—kokuas, everyone else—about 720, and the balance are over on the other side

Senator MITCHELL. Is cohabitation indiscriminately practiced?

Mr. McVEIGH. No, I don't think so.

Senator MITCHELL. Is there any regulation on the subject? If so, what is it?

Mr. McVEIGH. No regulation that I know of at the present time. There are a great many there who have formed connections that are unable to get a divorce from their husbands or wives, so that they could have new marriages, married again. We should have a divorce law which would permit these people to be allowed to marry again in the settlement.

Senator MITCHELL. Is there any prevention of fornication there?

Mr. McVEIGH. Not that I know of. We have talked lately about this, but nothing has been accomplished as yet.

Senator MITCHELL. How many children have been born there since you went there?

Mr. McVEIGH. Since May?

Senator MITCHELL. Yes.

Mr. McVEIGH. Five children.

Senator MITCHELL. Are they still there?

Mr. McVEIGH. One is there. Three were sent down and one died.

Senator MITCHELL. Three sent where?

Mr. McVEIGH. To the Kapiolani Home.

Senator MITCHELL. How old?

Mr. McVEIGH. One about three weeks old. Another was taken away about a week after the birth. We have one in the settlement yet. That child leaves the settlement this week.

Senator MITCHELL. Who is the physician in charge there?

Mr. McVEIGH. Dr. Goodhue.

Senator MITCHELL. How long has he been there?

Mr. McVEIGH. He has been there for about three weeks.

Senator MITCHELL. Who was there before him?

Mr. McVEIGH. Dr. French.

Senator MITCHELL. How long had he been there?

Mr. McVEIGH. He had been there from April 21.

Senator MITCHELL. How did he come to leave?

Mr. McVEIGH. I reported to the board of health some of his actions, and the board of health discharged him.

Senator MITCHELL. What were his actions?

Mr. McVEIGH. I considered he had been a little bit familiar with the natives up there—with the lepers.

Senator BURTON. Acting too much like he was a member of the colony, wasn't it?

Senator MITCHELL. Are these nationalities kept separate, or do they all mingle together?

Mr. McVEIGH. All mingle together. The cottages are in different portions of the grounds.

Senator MITCHELL. I suppose there are degrees in the way in which these people are affected?

Mr. McVEIGH. Yes, of course. Some are a good deal worse than others.

Senator MITCHELL. Some of them pretty bad?

Mr. McVEIGH. Some are very bad, and some are very little—very light cases.

Senator MITCHELL. In what respect bad?

Mr. McVEIGH. Tubercular cases are the worst.

Senator MITCHELL. Have sores?

Mr. McVEIGH. Sores.

Senator MITCHELL. On their body, generally?

Mr. McVEIGH. On the body, face, and hands, and on the feet, yes.

Senator MITCHELL. Is there any effort to prevent those that are very bad from cohabiting from those not so bad?

Mr. McVEIGH. Not at present.

Senator MITCHELL. Never has been has there?

Mr. McVEIGH. Not that I know of.

Senator BURTON. How often does the board of health visit the place?

Mr. McVEIGH. Twice a year.

Senator BURTON. This is the only experience you have had since May?

Mr. McVEIGH. That is in charge of the leper settlement. I have had considerable work in regard to lepers at the receiving station at Kalihi since I have been connected with the board of health. I have visited the settlement at different times, but not to remain there.

Senator BURTON. What is your salary?

Mr. McVEIGH. Two hundred and twenty-five dollars per month.

Senator MITCHELL. Allowances?

Mr. McVEIGH. Rations.

Senator BURTON. You don't know how many children have been born in that settlement for two years?

Mr. McVEIGH. The last report was in 1899. There was 45 born during the two years.

Senator MITCHELL. Will you furnish that report?

Mr. McVEIGH. I can furnish this book.

Senator MITCHELL. The last report?

Mr. McVEIGH. The last report was December 31, 1899. The next report comes at the next session of the legislature, the biennial report.

Senator MITCHELL. Nearly three years ago. How often did they report?

Mr. McVEIGH. Over two years ago. They report every two years to the legislature—that is, a report of this kind. There is a weekly report made to the board.

Senator BURTON. Did you ever know of leprosy to appear in the individual that had been born on the settlement and taken away from there?

Mr. McVEIGH. I think one case I know of.

Senator BURTON. How far is their island from here?

Mr. McVEIGH. Fifty-four miles.

Senator BURTON. From Honolulu?

Mr. McVEIGH. To Molokai.

Senator BURTON. No farther than that?

Mr. McVEIGH. Fifty-four miles.

Senator BURTON. How long does it take to go?

Mr. McVEIGH. Five or six hours.

Senator BURTON. I thought it took eight or ten hours.

Mr. McVEIGH. Some steamers take ten hours.

Senator BURTON. How long would it take this commission to go there and return?

Mr. McVEIGH. Leave here at night, at nine o'clock in the evening about, and get back about the same time. Twenty-four hours in decent weather.

Senator BURTON. This leper child, how old was she when she developed leprosy?

Mr. McVEIGH. This girl was named Cecilia and was about 13 when she developed leprosy. She showed marks on her back; about four or five years ago.

Senator BURTON. Born at the settlement?

Mr. McVEIGH. Yes, and brought to the Kapiolani Home.

Senator BURTON. Kept there?

Mr. McVEIGH. Kept there and developed leprosy.

Senator BURTON. At 13?

Mr. McVEIGH. At 13 years old.

Senator BURTON. And returned?

Mr. McVEIGH. Returned now to this settlement.

Senator BURTON. There now?

Mr. McVEIGH. There now.

Senator BURTON. Did you ever hear of any other case?

Mr. McVEIGH. No, sir. That is the only case that we have any record of.

Senator BURTON. Well, is there any pains taken to find out the facts—any efforts made to find out the facts as to whether leprosy does develop?

Mr. McVEIGH. Well, we have got those children down to the Kapiolani Home; part of the children.

Senator BURTON. How long since the home has been established?

Mr. W. O. SMITH. About twenty years.

Senator BURTON. Then people 20 years old are in the home yet?

Mr. McVEIGH. We have some there 20 years of age.

Senator BURTON. Has anybody gone to that home and then mixed in the community?

Mr. McVEIGH. One of the girls got married from the home two years ago.

Senator BURTON. Where did she go to?

Mr. McVEIGH. Down in Waianae.

Senator BURTON. Where is Waianae?

Mr. McVEIGH. About 32 miles from town.

Senator FOSTER. On this island?

Mr. McVEIGH. On this island.

Senator MITCHELL. Do you mean to say she married a man living outside?

Mr. McVEIGH. A carpenter by trade; a Hawaiian.

Senator BURTON. Who permitted her to get married?

Mr. McVEIGH. She had an examination. I don't know who gave her away. She was permitted to leave the home by the Sisters. Up to 16 years is as long as we have control of them.

Senator BURTON. Then are they taken away?

Mr. McVEIGH. They can leave the home if they see fit.

Senator BURTON. If they show no signs of leprosy?

Mr. McVEIGH. They must be examined by a physician before being allowed to leave there—a medical board consisting of five physicians.

Senator BURTON. If the board says there is no sign of leprosy they are free to go away?

Mr. McVEIGH. After a bacteriological examination as well, besides the five physicians who constitute the board. This girl that left the home two years ago, she had some trouble with another native on the outside and was reported as a leper. They had her brought in for examination and nothing could be found, no sign of leprosy of any kind. She had some trouble with some one who reported her as a leper.

Senator BURTON. How many people have left that home and gone out to live in the community?

Mr. McVEIGH. I could not tell exactly.

Senator BURTON. They are leaving every year?

Mr. McVEIGH. Some leave.

Senator BURTON. Leaving at the age of 16?

Mr. McVEIGH. Some do not. They stay there and give assistance to the others for board and lodging, to the younger children.

Senator BURTON. Well, can we have any information as to how many have left that home who were born at the leper settlement?

Mr. McVEIGH. I think that can be obtained from the Sisters.

Senator MITCHELL. Does this report say anything?

Mr. McVEIGH. I don't think so.

Senator MITCHELL. Have you any means of knowing how many children are born there—have been born there in the last five years?

Mr. McVEIGH. Yes, sir; at the leper settlement.

Senator MITCHELL. Can you state?

Mr. McVEIGH. No; only for two years. Of the 45 born during the period, 39 had both parents lepers; 2 where the father was a leper and the mother a kokua; 3 where the mother was a leper and the father a kokua, and 1 with both parents clean.

Senator MITCHELL. How many of these 45 children were illegitimate?

Mr. McVEIGH. I could not tell you.

Senator BURTON. Well, from your knowledge of the station, how many would you say were illegitimate—the majority of them?

Mr. McVEIGH. Perhaps about 50 per cent.

Senator BURTON. Don't you think it would be better to separate the males from the females there, so that no cohabitation would be permitted?

Mr. McVEIGH. No; I don't think so; not from a study of the Hawaiian character. I don't think so.

Senator BURTON. Why?

Mr. McVEIGH. Well, practically, I think it is hard enough for them to be segregated without separation of the sexes.

Senator BURTON. Don't you think it is better for 800 or 900 people to forego the elusive pleasures of cohabitation during their natural lives and pass away rather than to endanger the spread of this malady?

Mr. McVEIGH. Possibly so. I think under the condition up there it would be too much of a hardship.

Senator BURTON. You think it would be a very great hardship, then, to prevent cohabitation; that is your idea?

Mr. McVEIGH. Yes, sir.

Senator BURTON. You think that is the chief pleasure of life?

Mr. McVEIGH. No, sir; I do not. I think they are entitled to a little pleasure—entitled to some little pleasure. They are separated and taken from their homes, husbands from wives and wives from husbands, and children from parents. It is very hard.

Senator BURTON. Suppose they were separated only in the nighttime, and in the daytime proper guards.

Mr. McVEIGH. I don't think it is possible to guard the place so that the sexes would be kept totally apart there, even in the daytime.

Senator BURTON. You mean to say that wives and husbands could not be permitted at stated times during the day to come within an inclosure, so that they could have social pleasure and mix in that way without very much trouble?

Mr. McVEIGH. Oh, it could be done, I suppose.

Senator BURTON. Would not be very much trouble?

Mr. McVEIGH. If you could see the situation of the land up there—it would be a lot of work.

Senator BURTON. Suppose we take an inclosure, an acre of ground, in which a wife and husband were permitted to come in and see each other; have social intercourse.

Mr. McVEIGH. That could be managed very easily.

Senator BURTON. That, then, would relieve a great many of the imagined hardships for the balance of the twenty-three hours?

Mr. McVEIGH. Perhaps it would; yes.

Senator BURTON. Then it would stop the breeding of an infected race?

Mr. McVEIGH. I do not know that the race is infected. It has never been proven.

Senator BURTON. No; I don't know whether anything has been proven in medicine.

Mr. McVEIGH. I am not a doctor.

Senator BURTON. You have to do with the doctors a great deal?

Mr. McVEIGH. Yes; more or less.

Senator BURTON. At any rate, it is known that these diseases would spread if these people were permitted to mix and mingle in the community, don't you think so, by inoculation?

Mr. McVEIGH. By inoculation; I think so.

Senator BURTON. If it will spread by inoculation it will certainly spread by breeding. It would not take a doctor to know that.

Mr. McVEIGH. I do not know. I could not give an honest opinion.

Senator MITCHELL. Are marriages permitted there?

Mr. McVEIGH. Yes, sir.

Senator MITCHELL. Between lepers?

Mr. McVEIGH. Between lepers.

Senator MITCHELL. How many marriages have been—how many ceremonies of marriage have been celebrated since you went there?

Mr. McVEIGH. We had four.

Senator MITCHELL. Since you went there?

Mr. McVEIGH. Five months.

Senator MITCHELL. What was the condition of these people?

Mr. McVEIGH. Well, one couple were very mild cases and the other couple were bad. In fact, one was blind; the man was blind, a tubercular case.

Senator MITCHELL. And the one he married?

Mr. McVEIGH. A bad case; practically the same as himself, without the fact that the woman was not blind.

Senator MITCHELL. Both bad cases?

Mr. McVEIGH. They had been cohabiting together for many years, and the husband of the woman died on the outside. They had been cohabiting so long that they thought they would get married after the restriction was removed from the woman, which was very proper.

Senator MITCHELL. How many marriages in the past two years?

Mr. McVEIGH. I don't know; I can't tell.

Senator MITCHELL. Any statistics?

Mr. McVEIGH. Births, marriages, and deaths.

Senator MITCHELL. Who has charge of these statistics?

Mr. McVEIGH. The bookkeeper of the settlement.

Senator MITCHELL. Are they reported?

Mr. McVEIGH. Reported to the board of health.

Senator MITCHELL. Printed?

Mr. MCVEIGH. They will be printed in the next report.

W. O. SMITH, recalled.

Mr. SMITH. The whole question of leprosy in these islands has been one of great difficulty. As I stated the other day, there were a few cases in the fifties. I think it was not until 1857 or until 1855 to 1860 that the disease was fully recognized. Then it began to appear in many parts of the islands. A great deal of attention was given it by the government, by the physicians, and by the legislature, resulting finally in establishing this settlement on Molokai. They first had a settlement down here at Kalihi, in Honolulu. They acquired some land in Palolo Valley, the valley beyond Manoa, and thought of establishing the settlement there, but the location and conditions were not suitable, and finally this place on the near side of the island of Molokai was chosen, and it seems from the very beginning well adapted to the purpose. It was selected in 1864 by the legislature. In 1864 or 1865 they enacted this act for the segregation of lepers, and since that time they have been gathered up and taken there with more or less consistency and strictness. There have been times when the operation of the law was practically suspended. There was a great deal of opposition for a long time on the part of the natives to being sent there. Husbands were taken from wives and wives from husbands and children from parents. There have been several cases where the officers and agents of the boards of health and police officers have been assaulted and several have been killed. The deputy sheriff on Kauai, Mr. Stolz, was shot and killed. My own brother, a doctor, was shot and killed five years ago because he had pronounced a person a leper. The deputy sheriff, Mr. Walsh, on Maui, now living in San Francisco, was shot with a rifle ball, but escaped with his life on account of papers in his pocket. Dr. Trusseau, the president of the board of health, was shot down here at Kalihi. There was a great deal of difficulty in enforcing the law on account of the strenuous opposition of the people to being removed in that way, and it required a great deal of care and a great deal of tact and a great deal of patience to carry out the law. At first the lepers were examined by the physicians on each island, and were sent in many cases directly to the leper settlement. Later a board of three physicians was established, increased in later years to five physicians, and a bacteriologist to assist them.

The practice is generally this: When a district physician in any part of the islands suspects a person of having leprosy, he examines him, treats him for a period until he is pretty well satisfied—until he is satisfied it is leprosy—then the person is sent to the receiving station here in Honolulu and retained and examined and treated and sent up there.

From the very beginning this matter of the marriage relations at the settlement has been one of the most difficult questions to deal with. Every effort has been made to encourage those who were unmarried to marry rather than to live together without marriage. The priests and the Protestant clergymen there, sisters, lay brothers, and the officers of the board of health have done all they could for many years. For a period of nearly thirty years Mr. R. W. Myers resided at Molokai on the high land, the resident manager of the settlement, a man of high character, had become familiar and taken the very greatest interest in that subject. Different physicians,

Dr. ———, resident physician there for two years, have taken the greatest interest.

The matter has been discussed a great deal. Efforts were made to assist those where a man or a woman had a husband or wife outside of the settlement to obtain a divorce. I would like to state that in the gathering of lepers my first experience was in 1868, from that time until 1875. Since 1878 I have been to the leper settlement many times. I generally go twice a year. Last time two months ago. I am personally acquainted with nearly all of the people residing there. When I was young I knew many persons before they went there. I speak from my own knowledge in this matter of endeavoring to have them live together in lawful wedlock. We have been urging them, trying in every possible way. The question has been asked whether they were permitted to live together without being married. I may answer to that, they have been permitted in the sense that they have not been followed up and prosecuted before the law in every case when they were not living together lawfully.

Senator BURTON. They are practically permitted, then, to do as they please, according to the superintendent.

Mr. SMITH. I think that he gave a very wrong impression; he has only been superintendent there a few months.

Senator BURTON. A man could find out in five or six months how the people did?

Mr. SMITH. For twenty-five years I have been there a great many times, as president of the board of health, and we have looked into the matter with the utmost care.

Senator BURTON. A man who has been there as much as five months should know. Have you been there as much as five months, continuously?

Mr. SMITH. No, I have not; but I have had experience with those residing there continuously. I have frequently discussed the matter with the priests and lay clergymen and those living there.

Senator BURTON. Then you think the superintendent is mistaken?

Mr. SMITH. I think he unintentionally gave the wrong impression in using the word "permitted." In that sense of not following up and prosecuting it is true. The regulation used to be—I don't know whether in print where it could be found—but the regulation for years gave instruction against living together unlawfully, and an effort has been made continuously and persistently to try to prevent that. As has been stated here by several parties, it is an extremely difficult question to deal with.

Senator BURTON. Mr. Smith what makes you say it is a difficult question to deal with when it is so easy to segregate the men from the women?

Mr. SMITH. The only way would be to have two settlements entirely apart, in another part of the island, or another island.

Senator BURTON. Do you mean to say that men and women over there can't have any social intercourse without cohabitation?

Mr. SMITH. Many do live there, I believe, without cohabitation.

Senator BURTON. But all of them, I mean. Suppose it was fixed so they were not permitted to come together except for social intercourse, it could be managed under such surveillance as to prevent anything of the kind. Don't you think the lepers would soon adjust themselves to that condition?

Mr. SMITH. Unless it was reduced to a prison life with prison guards, I don't see how it could be done there at the settlements. The

settlement extends 3 miles from at the base of the mountain at the widest part to $2\frac{1}{2}$ miles. The village of Kalaupapa is large and contains between 500 and 600 houses—cottages—in which they live; about 300 people.

Senator BURTON. There would be no trouble in fencing—in building a high fence, high enough and tight enough, right up from that island, separating the men from the women, and permitting them to visit at stated hours?

Mr. SMITH. I see, and make two settlements. It would have to be a very high and a very strong fence; but I do not mean to make light of it.

Senator BURTON. I know you don't, nor do we.

Mr. SMITH. A wrong impression may perhaps have been gotten that the matter was permitted. It has not been so.

Senator BURTON. No; that impression was not made; at least, I did not get it, Mr. Smith. It is tolerated as a necessary evil and universally practiced. That is the impression I got.

Mr. SMITH. You have a wrong impression when you say it is universally practiced.

Senator BURTON. I mean practiced by those parties who want to practice it.

Mr. SMITH. A great many people there who do not practice it.

Senator BURTON. I don't mean everybody engaged in it; universally practiced where the parties want to.

Mr. SMITH. I don't think that is correct. There is a regulation against it. We have had from time to time prosecutions there. In the matter of prosecuting—

Senator BURTON. The superintendent says there is no regulation against that that he knows of.

Mr. SMITH. The superintendent has only been there a short time and does not know.

Senator BURTON. Do you mean to say that a superintendent who has been there five months, and there was a regulation intended to be enforced by the board of health, that the superintendent would not find it out?

Mr. SMITH. I don't say there is any specific regulation on that point. The regulation and the instruction for many years has been against it. I say the law is just the same there as here, except the difficulty of enforcing the law there is greater than on the outside. If prosecuted and found guilty, where are they going to be put? They can't be sent to prison anywhere else, and the matter of encouraging marriages between those who could marry has been carried on from the beginning, and of facilitating divorce where one party was a leper has been encouraged. One of the grounds for divorce in this country is where a person who has leprosy and is incurable; that would be grounds for divorce.

Senator BURTON. I understand you have done practically everything you could do except segregation?

Mr. SMITH. Except segregation, having two separate settlements. There are a great many people there living together who are married and living respectably. About those who do live together unlawfully, whether to prosecute them to the extent of the law is a matter which anyone familiar with the circumstances would appreciate. There would be a great deal of trouble about witnesses.

Senator BURTON. I don't think merely the effect on the lepers, although that is of course a matter that interests all, is of as grave a nature as the propagation of children there.

Mr. SMITH. That subject has received every thought and attention through the last thirty years. Dr. Hutchinson, minister of the interior and president of the board of health, gave the most earnest consideration to it. At one time they talked of having two separate establishments. The result was that as leprosy generally makes them sterile, it would not so much matter. There are very few children born there. It is a rare case—I have never heard of a child being born with leprosy. As far as experience goes only one case down here, removed, even up to 1 year of age, that has developed leprosy afterwards. It seems to me by inoculation, and not by heredity, that it is contagious.

I would like to speak also of several matters referred to. I would not trespass upon your committee were the question not of such terrible importance to the Hawaiian race. It is an awful thing for families to be separated and little children taken. As an officer of the board of health, I have had parents, mothers, down on their knees with their arms around me, imploring me to save their little boy or little girl, 5 or 6 years old, to be taken away and sent there. What could be done? With the parents perfectly clean, the child had acquired leprosy from some other source. There is a home for girls, called the Bishop Home, and later, Mr. Baldwin gave the money to establish a home called the Baldwin Home for boys, and it is altogether an extremely grave thing for the Hawaiian people what to do with these people.

Some one intimated here the other day that it was the outgrowth of the syphilis, which the people acquired from white men. Before white men came venereal diseases were unknown. So far as I have been able to learn from physicians, I don't believe that would follow. It seems to me a better opinion to contend that syphilis was a natural disease for leprosy to grow in. It spread through the other islands. The opposition to segregation was great, and in some cases it amounted to violence, even to murder, and there was one quite serious revolt at the leper settlement. Many times it has been extremely difficult to prevent revolts. I believe it is safe to say it would be difficult to find any race of people who could be separated in the way these have been so tractable and law abiding as these have been. In many respects the leper settlement is a model community of patient, enduring people waiting for death. There are cases of arrested leprosy, just as tuberculosis of the lungs has been known to be arrested. A post-mortem has shown cases where the scars on the lungs have healed. I believe it has been demonstrated that leprosy, taken in its incipient stages, under certain conditions, there have been cures of leprosy. They have been exceedingly rare.

So far as contagion is concerned, it is undoubtedly contagious, but I submit that the better opinion is more by inoculation than by what we ordinarily understand as infection. I have no more, personally, no more fear of going into the leper settlement than anywhere else, as at an ordinary hospital. An effort has been made to make the confinement as little burdensome as possible, and the home life has been encouraged. Instead of having large buildings or barracks to put them in, small plots of land with cottages is the rule. They are encouraged to plant fruit trees and flowers and things of that sort.

In regard to the matter of the complaints made of Father Wendelin, I want to say, because I know very fully the circumstances up to this recent occurrence, which has been explained, the Catholic priests are there, the Protestants are there, a Mormon clergyman there.

Senator BURTON. Mormon clergyman there? What does this Mormon do there?

Mr. SMITH. Among the Hawaiians there are a good many Mormons. He holds meetings at the church.

Senator BURTON. Does he teach polygamy?

Mr. SMITH. No; that is not allowed in this country. The Catholic priests and sisters have done most wonderful work there. There are very few people found anywhere who do the work they have done, and they deserve all honor and all credit. The priesthood of the Romish Church it is known are all the time trying to get power. In 1896 we had to remove the superintendent because he had become a Roman Catholic under the influence of Father Wendelin and interfered so much with the management of the settlement that we had to remove him. If a church day came on a week day, orders were given the men not to work on that day. Finally he would not allow the rations to be given out when a church day came on a week day. We had to remove that superintendent, who was an efficient man, and a leper himself. We had the very plainest talk with Father Wendelin and the bishop about it. In December, 1895, the Baldwin Home was built, the boys' home, and it was put under the charge of these sisters from Syracuse, N. Y., as well as the girls' home. The only man connected with it was Brother Dutton, an American who went through the civil war as a private in Illinois and Ohio regiments. He has devoted his life as a Roman Catholic to the care of these people. Mr. Baldwin gave a donation of \$5,000 for the new home to be established. Brother Dutton was put in charge as superintendent, with five or six assistants, tailors, teachers, and others. Father Wendelin talked to me very severely when he found it out. I went to call upon him, and he wanted to know what I meant by putting in Brother Dutton without the permission of the bishop. I asked him what he meant. He said, "You know we are under the charge of the bishop. How can you do that without the permission of the bishop?" I told him, "You and these Protestants are here under the direct head of the superintendent. You are all welcome here, we are glad to have you come, but we can't have you interfering with the management of these people." Prior to that, before, Father Conrade, during his residence there after Father Damien's death, had interfered to such a degree in the management that we had to have him removed. The bishop told me personally he approved of his removal. Father Wendelin is a hard-working man, but he wants power. I had to on more than one occasion to go to the bishop. He stated he would write to Father Wendelin, and thereafter things went on better for a time. In regard to the details as to what went on this spring, I have no personal knowledge of what went on here. Mr. Sloggett is the president of the board of health and came to ask my advice. I advised him the best I could. I don't approve of church control. I am a Protestant myself, but Protestant, Mormon, or Catholic can not be allowed to interfere with the management of that place.

There has been a good deal of feeling between the different religions up there, and it was very troublesome at one time. These two homes being under the charge, only under the charge, of the sisters and brothers, was the occasion for many of the Protestant natives to have many of their children taken away. On a number of different public meetings which I had with the lepers, I explained to them when they protested against it with great opposition, I explained that, although I was a Protestant, if it was necessary to become a

Roman Catholic to get into one of these places, I would become a Roman Catholic. The church has done a great work there, the Romish Church, but they seek to obtain power which should not be permitted. This is especially objectionable under American institutions.

One thing more. The matter of the government physicians. The government physicians were established after leprosy became quite prevalent throughout the islands. There were certain places, Honolulu, Kohala, Wailuku, Hilo, certain centers where physicians resided, but in most of the districts something was needed to induce any physician to go there and live. The legislature took the matter under consideration and made a recommendation to the board of health that a system of government physicians in the various districts be established. Most of them got about \$60 a month. As was explained, where there is a plantation or plantations in the community the plantation people pay them a certain salary to look after the employees of the plantation. They are to treat the indigent people, so that no one may die because of medical treatment being lacking because he is poor. The salaries are small in most cases, and it is a part of the system for the examination of people for leprosy. They have to do the vaccinating. The schools all require a health certificate. Every teacher of a country school or private school is liable to a fine if he or she allows a child to come to school without a certificate of successful vaccination. This can be done by the government physician or a private physician, as they choose. Most of the physicians are conscientious, good men. There have been some unfortunate experiences. There are men everywhere who do not always work well.

I think that Dr. Sloggett was a little mistaken about the physician at Waimea, Hawaii. There is a district at North Kohala, and South Kohala includes Waimea. In North Kohala there are five plantations, and the village doctor resides there. Waimea is mainly a grazing district, and there are very few people residing there. The doctor goes over periodically or when required. Right on the other side is the Hamakua district, and the doctor there is sometimes more accessible than the Kohala doctor.

In regard to the superintendent entering houses, as mentioned in a letter this morning, I believe it is right and proper that the superintendent residing at that settlement should have that right, the right to supervise and enter these houses for sanitary reasons, for every reason, to see if the houses are kept properly, in good condition, to see that the making of beer and swipes is prohibited. There have been times when there was disorder and trouble caused there by the making of intoxicating drinks from potatoes, because from the first liquor has been prohibited. In a hospital or institution of that kind there would be supervision. Recently a resident magistrate was appointed, which, in my opinion, was a mistake. It has been advocated for many years. We always opposed it. It has never been until lately. There was a native judge living on the other side of the island and he would come over from time to time when anything of a serious nature was to be tried.

Ordinarily the resident superintendent, with two or three police officers there, have attended to all these matters, and there has been but little trouble. A resident judge will simply, I believe, knowing the native character, promote litigations. There are certain lawyers among the lepers and they have very little to do and very few amusements. The present superintendent is doing a great deal of

the way of introducing baseball, foot races, and athletic exercises among these people. Many of them are able-bodied people.

Senator MITCHELL. Are there any number, any proportion of this community that are compelled by reason of leprosy alone—I do not mean getting sick from other causes—confined to their beds?

Mr. SMITH. Yes; the disease takes different forms. I don't know the technical terms. There is the tubercular form, where tubercles form. Generally the fingers drop off. I have seen a man living with both feet and both hands gone. Some of them are extremely repulsive.

Senator MITCHELL. These have to keep their bed?

Mr. SMITH. Yes, sir.

Senator MITCHELL. About how many?

Mr. SMITH. I can't tell you.

Mr. McVEIGH. There are 168 people helpless.

Senator MITCHELL. They require the care of an attendant all the while?

Mr. SMITH. Whenever they have relatives—husband, wife—they take care of each other. This gives rise to the system of *kokuas*. Generally husband or wife, who is clean, a parent, or child there ministers to the sick people until they die. There is a regulation there that within three weeks after the sick one has died the leper must leave, after undergoing an examination to see that there is no infection—must leave the place.

Senator MITCHELL. What disposition is made of the dead?

Mr. SMITH. There are burial places there.

Senator MITCHELL. On the island?

Mr. SMITH. On the island.

Senator MITCHELL. Are any of the dead removed?

Mr. SMITH. No, sir. Nothing is allowed to leave that place, nothing of their products, nothing used on the place. I know in regard to some supplies taken that were not satisfactory, found to be inferior or bad. I don't think they could be returned, having once been in the settlement.

These people, the Hawaiians, are very kindly and helpful to each other. That *kokua* system grew up in that way. Involved in it is this matter of the marriage relation and people living together not married. I have known many cases myself of where a man was living not in improper relations in the same house, one caring for the other. To see many of them one would think there was nothing the matter with them; not the slightest sign on the face or hands, and apparently their bodies are clean. In other cases the appearance is extremely repulsive.

Senator MITCHELL. Be as brief as you can, Mr. Smith.

Mr. SMITH. In regard to complaints, taking up this letter of Father Wendelin. Making complaints has never been objected to. In former years, twenty years ago, the board of health only visited the settlement once in two years and the sanitary officer of the legislature twice a year. There are public meetings, and any complaint of any nature can be made. The priest and the Sisters and the clergymen are encouraged to make complaints of anything to complain of. They are listened to and heard. The great trouble with Father Wendelin is that he doesn't complain to the right sources. That is briefly what I wanted to say.

In regard to the matter of the United States taking over the settlement and making it a United States station, I am opposed to it.

Senator FOSTER. Why are you opposed to it?

Mr. SMITH. Because those people living there are living under their own conditions, their language, their diet, the climate; all these circumstances, in bringing in people from elsewhere, would be foreign to them, and their tastes, their traditions, their ideas, their food would be the cause of discord to these people there.

GEORGE MARKHAM. I would like to have a hearing before your honorable commission upon, first, Governor Dole's administration; second, labor commissions; third, the leper settlement and its administration; fourth, the land laws and system; fifth, the fire claims; sixth, our political system. As a native Hawaiian and an American citizen since annexation, I ask of your honorable commission that I may have a hearing.

Senator BURTON. You want to be heard personally?

Mr. MARKHAM. Personally, individually.

Senator BURTON. How long will it take you?

Mr. MARKHAM. I don't think it will take more than two or three hours.

Senator BURTON. That is a long time. Could you not put in writing what you have to say?

Mr. MARKHAM. Certainly; I will be very obliging.

Senator BURTON. Prepare your paper and hand it in at the meetings of the committee. Owing to the brief time and the large number of persons to be heard, we must limit every one as much as possible.

CURTIS J. LYONS, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. LYONS. My age is 69; I am connected with the Government survey, now in the ——— division, Honolulu?

Senator MITCHELL. How long have you resided in Honolulu?

Mr. LYONS. I was born in the islands, and I have resided in Honolulu since 1865—37 years.

Senator MITCHELL. You were born on the islands?

Mr. LYONS. Waimea, Hawaii.

Senator MITCHELL. How long have you been engaged in the service?

Mr. LYONS. I have been connected with the Government survey since 1871.

Senator MITCHELL. You can proceed with your statement.

Mr. LYONS. The point upon which I wish to speak just now is that in considering the disposal of the water of the Kohala Mountains. Waimea is my native place, adjoining the Kohala Mountains. Waimea is, the larger part of it, public lands at present, formerly Crown lands. I feel that in the disposal of the water—I wish to say, in the first place, I have no prejudice one way or the other with respect to any parties who are endeavoring to further irrigation schemes. My contention is not against any of them. I am not defining either one. It is my native place, but I have no personal interest there in land matters or anything of that kind. I consider that the matter of the disposal of the Kohala water supply is a matter of general interest. I doubt whether an irrigation provision to an irrigation company would be likely to meet the exact conditions, though I do not know what those provisions might be. There is a large divisional interest there and a number of what would become claims on the water.

The water is desired for Hamakua, where there are a great many plantations. The water is desired for other parts of Kohala and

South Kohala, where there are also plantations. The land of Waimea is and has been for many years a large ranch. The land of Waimea may be said to be divided into two parts, part Waikoloa, a large land, and this private property. The large remainder is purely public property. This public property, aside from the ranch interest, can only be developed by the supply of water, which is greater than what it enjoys at present. The climate is good; an average elevation of 2,500 feet; will grow vegetables, potatoes, and corn, and I think for forage purposes; grains could also be raised there, oats, wheat, etc. I have a hope that that land may not always continue on the basis, on what you may call the cowboy basis of ranch. I am not at all opposed to the ranch industry. I feel that it is necessary that there shall be cattle and sheep. I think in the future these can be raised in a more civilized manner, in smaller divisions of land, raising sorghum, or raising other forage plants; but in order that people could live there on the farming basis there must be a special arrangement for getting water, and the only source of water is the Kohala Mountains. The net rainfall in Hamakua is 60 to 80 inches. The sugar industry there can prosper—has prospered upon its present basis—although they have had their spells of severe drought and have had their water affected for domestic purposes. The water supply of that mountain, it does not seem to me that it should be divided. The water supply of the Kohala Mountains, while it would be a great convenience to them, it would not hardly weight it against similar circumstances as against the other district, because the Hamakua district has prospered without extra water supply, and Waimea district, the public lands can not be developed without it.

As I understand the schemes, it is to divide this into two or three—it is the Aawini scheme I speak of, that being the larger land. The water there is inexhaustible. I should encourage taking that water where it can be used. It can't be used or taken to Waimea, and taking it will not deprive any valuable districts of its supply. Puukapu, which contains the larger part of the mountain water supply, is a part of Waimea, and the old theory is here that the water belonging to the land should be used upon that land. Puukapu runs at present, quite a large part of it, in the valley of Waipio. It goes up to Waipio far more water than Waipio has ever or can use within its own boundaries. To take the Puukapu water would be to interfere with any agricultural industry pertaining to the valley itself. The west side of the island is ready, and it may be that this water may be taken to water cane lands upon the west side of the island, south of Kohala. It would seem to me as if there should certainly be a part set aside for the development of Waimea. The present scheme to take away the water would not harm present uses, but I do think it would lock up the water that would be needed for future development. That is the point I wish to make. It seems to me a public duty to see that that is provided for, and also I may make this statement.

The interests of the Kohala Mountains have been very much infringed upon by the cattle interests. I don't say it is especially the fault of anyone. It is the fault largely of the community. The forests on the mountain sides have been very much diminished, and the plains of Waimea, which were once forested, are now practically deforested. It may be that part of it was necessary, a part of that deforestation. There is a large extent of land on that plain which can not be watered. The Kohala water would not be sufficient for it.

The ranch interest would of course preserve all that. There is not enough water in the Kohala Mountains to supply the great area.

Senator MITCHELL. Do you understand the scope of the scheme—of their scheme—for housing up water?

Mr. LYONS. I don't understand the scope of their scheme.

Senator MITCHELL. You don't know, then, that the water they propose to use would have an effect on these lands?

Mr. LYONS. I don't know the scope of their plans, except I see that the ranch interest would naturally need so much, while it would provide for the present rights as at present occupied, but it would not provide for what I consider will be the future development and rights. That is the way in which I would look at it. I think for one thing that reservoirs would conserve water and freshets for purposes of using. I think I have presented my view of the case.

Mr. GEHR. Mr. Lyons, do you remember at a meeting of the executive council last September, very largely at your suggestion, the governor required in the proposed license there should be inserted a clause specifying that all waters flowing or coming toward Waimea, and putting it within the power of the government officials to define the line at which it should be determined that waters no longer flowed toward Waimea, and taking it out of the hands of those who were asking for the license to determine that point?

Mr. LYONS. I remember that the line was drawn then. That provides for part of the question that pertains more especially to the Auwini slope.

Mr. GEHR. In other words, all waters toward Waimea were specifically eliminated, the government officials to fix the line from which Waimea waters should not be diverted to Kohala?

Mr. LYONS. I remember that distinctly. The Puukapu water is the doubtful question, whether it is—whether it belongs to Hamakua or Waimea; it is on Waimea. That is one reason why I bring this matter up at present. I know, with reference to the whole mountain, it would seem as if the system should be gone over with reference to the whole ground.

Senator THURSTON. The supervision should be retained by the Territorial officers in the execution of this irrigation plant to determine, as the work goes on from time to time, as to lines of ditches and the particular division of the water supply. I should think it could be kept within the power of the public. That would answer for the public welfare?

Mr. LYONS. I should think so, with reference to these public lands.

Senator THURSTON. Some continuing supervisory power.

Mr. LYONS. That is, with a view to enterprises that are not at present provided for.

That is all.

The committee adjourned until 2 o'clock, Monday, September 22, 1902.

ON BOARD STEAMER CLAUDINE,
September 17, 1902.

A. N. KEPOIKAI sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. KEPOIKAI. My name is A. N. Kepoikai; I live in the town of Wailuku, island of Maui, and am an attorney at law.

Senator MITCHELL. Are you a native of these islands?

Mr. KEPOIKAI. I was born in the town of Wailuku, and am 42 years of age next December.

Senator MITCHELL. State what official positions, if any, you now hold or have held in the islands.

Mr. KEPOIKAI. At present I am not an officeholder, only that of notary public.

Senator MITCHELL. You have been a judge?

Mr. KEPOIKAI. I have held the district judgeship of the district of Wailuku, the circuit judge on the island of Maui, known as the second judicial circuit, consisting of the islands of Maui, Molokai, Lanai, and Kahoolawe.

Senator MITCHELL. How long did you hold that position?

Mr. KEPOIKAI. I was district magistrate for eight years, held four commissions; every two years the commission as district magistrate was renewed. I was appointed in May, 1886, and then was made circuit judge in June, 1892, I think—no, 1890; and although my commission did not go out in 1892, that was at the time of the trouble—the overthrow of the government—I was considered out.

Senator MITCHELL. Are you acquainted with the labor conditions on this island of Maui?

Mr. KEPOIKAI. From my experience as district magistrate during the labor system—that is, under the contract system—I have had a great deal to do with it—men being brought up under different charges for desertion under their contracts.

Senator MITCHELL. Well, I mean now.

Mr. KEPOIKAI. I do as attorney for the plantations.

Senator MITCHELL. You represent certain plantations, do you?

Mr. KEPOIKAI. Yes, sir.

Senator MITCHELL. Which ones?

Mr. KEPOIKAI. The Hawaiian Commercial Sugar Company; the Haiku Sugar Company; the Paia Plantation Company.

Senator MITCHELL. Now, Judge, state in your own way, for the information of the committee, the present condition of business in this island of Maui, and any suggestions you may have to make in regard to any remedy you would recommend if a remedy is needed.

Mr. KEPOIKAI. Business is really at a standstill for the past couple of years, inasmuch as in our labor system, what with the reduced prices of sugar and the shortage of labor, the labor question—when I say shortage of labor—there is a shortage of labor on the plantations, so that at the last crop the cane dried on the plantation for want of men to cut it; this year they are even behind cutting.

Senator MITCHELL. You mean lack of field laborers?

Mr. KEPOIKAI. Yes, sir; it was so the cane dries up for want of men to cut and mill it.

Senator MITCHELL. What is the character of the labor you have here?

Mr. KEPOIKAI. It is mostly Japanese labor, and last year we had quite a number—we have a few of these Southern negroes and Porto Ricans. Now, the Porto Ricans that we have may make a good class of laborers hereafter, under new conditions; it was so, I think, when they were brought in they were starved, and it takes some time before they get acclimated and get used to the food. The principal food here is fish that we catch, and there is taro and rice.

Senator MITCHELL. What is the price of field laborers here now on the plantations—wages?

Mr. KEPOIKAI. It ranges between \$18 and \$22; some of them get \$1 a day.

Senator MITCHELL. I am speaking of the unskilled laborers.

Mr. KEPOIKAI. Yes, sir; unskilled labor on sugar plantations, \$18, \$22, and \$24 per month.

Senator MITCHELL. How do the wages compare with the wages of that same class of labor three or four years ago?

Mr. KEPOIKAI. They do not get as much money as when our contract system was going on. Chinese were brought here for \$9, but the expense of bringing them over brings it up to the same prices as now.

Senator MITCHELL. Do they get any allowance in addition to the wages?

Mr. KEPOIKAI. Yes; the Hawaiian Sugar Company allows them firewood and doctor, and the same way with the other two plantations. They have a doctor and a hospital built in the two places, and is built by the plantation, but when it comes to severe cases it is taken down to our government hospital in Wailuku.

Senator MITCHELL. What do you recommend, if anything, in the way of legislation by Congress?

Mr. KEPOIKAI. I have not taken the matter up—if the commission will excuse, being a member of the board of fire claims—the question now propounded will give me a little time to investigate the situation. I may be able to give you a better answer then.

Senator MITCHELL. Will you be up in Honolulu?

Mr. KEPOIKAI. I will be up there on Monday; I am a member of the fire claims commission.

Senator MITCHELL. Well, you do hold an office now besides that of notary public?

Mr. KEPOIKAI. Yes, that is right; that is the only other office that I hold.

Senator MITCHELL. Well, is there anything else, Judge, that you wish to state in regard to the conditions of the islands here that should be brought to the attention of this committee?

Mr. KEPOIKAI. As a practicing attorney—and as Colonel Parker is here with me now—we spoke about this to President McKinley after the convention in Philadelphia. The President asked the colonel here about the appointment of judges—I mean Colonel Parker; the colonel says he made a bad appointment by appointing Judge Kalua, and the colonel will bear me out with the intimacy that the colonel bears with the President. As a practicing attorney before his court in matters of probate and equity, I think there is hardly a probate matter that is brought up before Judge Kalua that he was either on one side or the other—makes it inconvenient for practice before him.

Senator MITCHELL. You are speaking of your present judge in this district?

Mr. KEPOIKAI. Yes, sir.

Senator MITCHELL. How long has he been serving?

Mr. KEPOIKAI. Since June, 1900.

Senator MITCHELL. Do you mean to tell the committee that he is corrupt?

Mr. KEPOIKAI. I think, in plain language, that he is. We have had a case, and it came to my office, and I happened to be at the legislature in 1898. It went from my office into Hons & Coke—about a man that he defaulted, and there was a complaint made before him. It has to be made before him as the presiding justice, and that

is a matter of record now, where he has embezzled the client's money; and knowing all these facts together and happening to be away, this man went to Mr. Coke's office, and I believe the papers are on file now in his court, where he went to work and settled the suit. This was prior to his appointment, and, if I remember correctly, the complaint reached the President after the nominations went in the Senate.

Senator MITCHELL. On whose recommendation was he appointed, do you know?

Mr. KEPOIKAI. Well, I understood from the President—I think their names were mentioned—Cecil Brown happened to be there in Washington about that time—W. O. Smith, both were there at that time. It may have come through the governor here.

Senator MITCHELL. He is a native?

Mr. KEPOIKAI. He is Hawaiian born—born on the island of Molokai.

Senator MITCHELL. What next?

Mr. KEPOIKAI. Our wharf accommodations on this island is under—

Senator BURTON (interrupting him). Do you favor restricted Chinese immigration for agricultural purposes only?

Mr. KEPOIKAI. That is under that same question that was just propounded by Senator Mitchell. I do favor restricted immigration, to answer the question.

Senator BURTON. You think it would be better?

Mr. KEPOIKAI. Undoubtedly.

Senator BURTON. You are a native Hawaiian, are you?

Mr. KEPOIKAI. I am.

Senator BURTON. You do not think the Hawaiian people would oppose in any way, but would favor, if they could speak, restricted Chinese immigration—that is to say, allowing a limited number of Chinese to come in here for agricultural purposes only?

Mr. KEPOIKAI. While there may be some objections from the masses of the laborers—that is, field laborers of Hawaii—still that has been done away with, because nearly four-fifths of the Hawaiians are not exactly field laborers, as they were when the plantations started.

Senator BURTON. Why?

Mr. KEPOIKAI. They are taken up in the different work. Hawaiians on the different plantations—they are really the skilled laborers on plantations. They are drivers of mules, on the cars and locomotives, and they are in the mills, and while in great mills there some Chinese are seen, most of the places are filled by the Hawaiians; and there is not so many Hawaiians out in the field on the plantations, but they are team or mule drivers, and the Chinese are no drivers.

Senator BURTON. Is it not a fact, Judge, that the plantation managers would be willing to employ as many Hawaiians as would present themselves for employment on the plantations?

Mr. KEPOIKAI. They would. On three plantations that I am attorney for they encourage the Hawaiians.

Senator BURTON. How many plantations are there on this island of Maui?

Mr. KEPOIKAI. The Kipahulu plantation, the Haau plantation, the Haiku plantation, Paia plantation, Hawaiian Commercial Company, Wailuku, Olowalo, and Lahaina Pioneer Mill.

Senator BURTON. What is the capacity of the largest of these, if you know?

Mr. KEPOIKAI. They are trying at the next crop—they are figuring on the Hawaiian Commercial yielding 35,000 tons.

Senator FOSTER. I was going to ask—well, that's all.

A. N. KEPOIKAI, recalled.

Mr. DEKNIGHT. Judge, you were a delegate to the last national Republican convention?

Mr. KEPOIKAI. I was, with Colonel Parker.

Mr. DEKNIGHT. What is the sentiment among the natives in regard to the claim of the Queen that she was damaged by the United States minister plenipotentiary in the landing of the United States forces and the overthrow of her Government?

Mr. KEPOIKAI. They feel if it were not for the presence of the United States forces they could have settled their own difficulties themselves, and they feel on account of that that the Queen has been done out of her just earnings from the Crown lands, and the general feeling is that she ought to be paid some money for the rights that were taken from her by the United States—by the action of the United States Government. Of course, when I say that, it is the feeling of the masses of the Hawaiians.

Mr. DEKNIGHT. You are yourself a native Hawaiian?

Mr. KEPOIKAI. I am, yes, sir, a native Hawaiian. I brought this up when I was at the convention. I told Senator Clark something ought to be done toward the Queen, and I says: "Seeing, now, that the legislature has adjourned, and nothing done for the Queen, supposing I go back there and run for the legislature; if I get in, should I try to get it from the local legislature of the Territory—some money for her?" And he says: "Yes; you could get it if the Territory could appropriate some money." They could appropriate money here; and the consequence was, all the three different political factions here put in a plank for an appropriation for the Queen. The Republican party at that campaign, in 1900, was the first to come out with their platform for an appropriation for the Queen, and it was so passed by the last session of the legislature, and it is in all the different platforms of this campaign.

Mr. DEKNIGHT. Do you believe it would create a better sentiment on the part of the native Hawaiians toward the United States if the United States should recognize the Queen's claim?

Mr. KEPOIKAI. Undoubtedly, that she should be paid something.

Mr. DEKNIGHT. By the United States Government?

Mr. KEPOIKAI. Yes, sir.

Senator MITCHELL. What amount did the local authorities appropriate; do you know?

Mr. KEPOIKAI. I forget.

Senator MITCHELL. You do not know the amount?

Mr. KEPOIKAI. No, sir.

JAMES L. COKE, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. COKE. James L. Coke; age, 27 years; residence, Wailuku, Maui; attorney at law.

Senator MITCHELL. How long have you resided there?

Mr. COKE. I have resided at Wailuku over four years—going on five years.

Senator MITCHELL. Are you acquainted with the labor conditions of the island?

Mr. COKE. Yes; I think I am fairly well acquainted with the matter for a person who has lived here a number of years, as I have.

Senator MITCHELL. State, in your own way, for the benefit of the committee, what the conditions are as you understand them.

Mr. COKE. Well, in my opinion, the experience that the plantation owners have had with the Porto Ricans and Southern negroes, they are not satisfactory laborers; the negroes have especially proven to be unsatisfactory; they have caused riots, and most of them have finally landed in jail for some offense or other.

Senator FOSTER. These negroes came from the Southern States?

Mr. COKE. A great many of them have been brought in here from Alabama and quite a number from Tennessee, and there is no particular difference; they are rioters and have been guilty of different offenses and are unsatisfactory laborers. The Porto Ricans are also very poor laborers and not able to do the work; they are not strong, and I do not think they are adapted to the conditions here and do not seem to be able to do the work; they will work one day and rest about three—that is, the Porto Rican.

Senator FOSTER. They are strong and healthy, are they?

Mr. COKE. I can not say that they are; they are a rather weak class, at least those that have been brought here are very weak and disinclined to work; they do not work; they do not put in more than an average of eight or ten days a month.

Senator FOSTER. Have you any considerable number of Portuguese here?

Mr. COKE. The Portuguese are very good laborers, perhaps the best for the reason that they will build up a home, raise their children; they are all right, only there is not enough of them.

Senator FOSTER. About how many are there on this island?

Mr. COKE. That would be very difficult for me to estimate the number on the plantations; I should say that there are perhaps at least 1,000 Portuguese here, if not more.

Senator FOSTER. What wages are paid these field laborers generally?

Mr. COKE. The average wages are about \$18 to \$22 per month—something like that.

Senator FOSTER. Is there any difficulty in getting labor to meet the needs?

Mr. COKE. Oh, yes; there is a shortage of labor here at present.

Senator FOSTER. Well, they pay the same to the Portuguese as they do Chinamen, Porto Ricans, and the negroes?

Mr. COKE. No; the Portuguese generally get a little higher class labor than the ordinary Porto Rican. The Portuguese—some of them—are what we call common “lunas,” and they are not regular field laborers; their work brings a little better price, and they are paid a little better wages than ordinary laborers.

Senator MITCHELL. What do you suggest, if anything, in the way of a remedy by Congress?

Mr. COKE. Well, I suggest, in my opinion, that there should be—that is, perhaps—an amendment to the Kahn-Mitchell bill to the effect allowing a restricted immigration of Orientals, Chinese, for the purpose of plantation labor in these islands, and that amendment should be so framed that these laborers would not be permitted to pass on to the mainland or any other part of the United States.

Senator MITCHELL. Or engage in any other labor except field labor?

Mr. COKE. Yes; or engage in any other labor except plantation labor. I believe that that would not in any wise interfere with anyone here in these islands, and that it would be a benefit to the whole people, on account that the sugar industry is the backbone of this country.

Senator MITCHELL. Would there be objection on the part of the Hawaiian laborers to such a course?

Mr. COKE. I do not think there would be any objection at all; there are very few Hawaiians working in the field; you can go into the field of any plantation that you pass and I warrant that you will not find 1 Hawaiian out of 100 laborers, on the average.

Senator MITCHELL. Would it be possible, Mr. Coke, for you to get the last reports of these plantations and forward to the committee?

Mr. COKE. I think I could.

Senator MITCHELL. Will you kindly do it?

Mr. COKE. Yes, I will; I can get it from Mr. H. P. Baldwin; he asked me to come here to meet you.

Senator MITCHELL. Any other subject you wish to bring to the attention of the committee, Mr. Coke?

Mr. COKE. There is one thing that I wish to impress on the minds of the committee, and that is the one fact that the sugar industry here is the sole industry of this country particularly, and any legislation that may be enacted in Washington in any wise interfering with the industry of this part of the United States will be very severely felt here by all of the people.

Senator MITCHELL. How do you feel on reciprocity with Cuba?

Mr. COKE. I feel very much opposed to it, from perhaps a selfish standpoint; but at the same time we have been adopted by the United States, this country has, and at present it is just about all the plantations can do here to exist now; very few of them are paying dividends at this time. If there is any further legislation enacted at Washington which will reduce the price of sugar in these islands it will practically knock out that industry here; whatever it may do there, it is bound to ruin the sugar industry in this country; the effect of the increase in price of labor and decrease in price of sugar has brought the plantations down to a condition of just being able to exist.

Senator BURTON. The industries are in a state of collapse?

Mr. COKE. They are in a state of decline; they have declined for the last year or two.

Senator FOSTER. Are these plantations run economically?

Mr. COKE. Unquestionably.

Senator FOSTER. Could sugar be raised at any cheaper prices?

Mr. COKE. Unquestionably they are run as economically as possible. It is necessary for these people to save all they can to meet expenses; and some of them run behind.

Senator MITCHELL. What industry would take the place of sugar?

Mr. COKE. In my opinion there is no industry that could take the place of sugar in these islands to any particular degree. There might be an industry that would to some extent supplant the sugar industry here, but it would not amount to anything.

Senator FOSTER. Any coffee raised?

Mr. COKE. Yes, sir.

Senator FOSTER. In any considerable quantity?

Mr. COKE. Yes, quite a good deal of coffee here. There is one large plantation here, the Honolu plantation, but I do not know very much about coffee.

Senator FOSTER. Any rice?

Mr. COKE. Considerable rice; yes, sir.

Senator FOSTER. Raised by the Chinamen under lease?

Mr. COKE. Yes, sir.

Senator FOSTER. What do they pay an acre for their leases?

Mr. COKE. Rice lands are leased—of course it varies, some pay \$50 and \$75 per acre, as high as that for rice land.

Senator FOSTER. What rates do the sugar planters pay for leases?

Mr. COKE. Well, there is very few plantations here that lease a great deal of land—that is, I mean from individuals; of course if they do lease the land, they pay just simply what the rental value is worth, or what some one else might pay.

Senator MITCHELL. Is there much government land leased to plantations?

Mr. COKE. Not a great deal of government land leased to plantations.

Senator MITCHELL. Do you know of any?

Mr. COKE. Yes; I think I do. I think the Honolulu plantation, which has just closed up here, had a great deal of government land, their leases having expired.

Senator MITCHELL. Do you know what they paid per acre?

Mr. COKE. No; I do not know.

Senator MITCHELL. Do the Hawaiian Commercial Company mainly own their plantations?

Mr. COKE. Yes, sir. They have their title in fee simple.

Senator MITCHELL. Have they leases of crown lands?

Mr. COKE. No. They own all in fee simple.

Senator MITCHELL. What is the value of these lands per acre; what is the usual value of the land?

Mr. COKE. The Hawaiian Commercial Company's land taken all together, some of it is quite valuable. It is hard to say. Some of it is worthless entirely. Some of it is in Wailuku—they rent for the purpose of raising taro—and other lands that are worth less. But it is very difficult for me to say what that land is worth.

Senator MITCHELL. Well, for sugar purposes what is it worth?

Mr. COKE. Well, I should say for sugar purposes the plantation—I guess that land, 43,000 acres of it—I should say that the land is worth between—

Senator MITCHELL. Say from \$10 to \$12 per acre. How much is there in sugar?

Mr. COKE. Yes, sir. I understand that there is about 20,000 acres that is valuable for sugar out of the 43,000 acres, although I will send the commission a full report of all the details, if I can get it, of the plantation.

Senator MITCHELL. I suppose you represent some of these plantations as attorney, do you?

Mr. COKE. Yes; I do represent some of them now in legal matters that come up.

Senator MITCHELL. Any other subject that you wish to bring to our attention?

Mr. COKE. Well, I would like to add to the same sentiment expressed by Judge Kepoikai here in relation to the absolute unfitness of the circuit judge which we have here in the island of Maui; that is, Judge John W. Kalua, judge of the circuit court of the second judicial circuit, Territory of Hawaii.

Senator MITCHELL. He resides in the islands?

Mr. COKE. He was born and raised in these islands. He was born on the island of Molokai and has been about twenty years in the island of Maui.

Senator MITCHELL. What have you to say as to his capacity as judge?

Mr. COKE. I wish to say that so far as his knowledge of the law is concerned that he has a very elementary legal education. I do not consider him a lawyer; do not think that his knowledge entitles him to that position.

Senator MITCHELL. How much business is there done before his court?

Mr. COKE. A great deal of business transacted, and I wish to say that it is an important thing for the people of this island, I think, to get a clean judiciary, for the reason that where matters of importance come up, where a question of habeas corpus or some proceeding of that kind—we are not near enough to Honolulu to apply to the supreme court—we must rely solely upon the circuit judge of this island, and therefore it sometimes becomes important that he should be an honest man.

Senator MITCHELL. Do you consider him a man of integrity?

Mr. COKE. I do not. I know of instances; I could repeat them here to the commission for an hour, if necessary. I will add to the remarks by my colleague, Judge Kepoikai, that I brought a suit against him, filed a complaint in his own court charging him with embezzlement of funds of an old Hawaiian, some several hundred dollars, and that complaint is on record and has not been denied by him; but after the complaint was filed he came up here and settled the case.

Senator MITCHELL. That is to say, after he was appointed judge, you brought suit in his court, charging him, the judge, with this embezzlement, prior to the time he became judge?

Mr. COKE. Yes. The suit was not brought prior to his being appointed judge by the President of the United States, but it was while he was acting as Territorial judge of this district.

Senator MITCHELL. What became of the suit?

Mr. COKE. The suit was settled; he paid the money.

Senator MITCHELL. What amount was claimed?

Mr. COKE. Some \$200.

Senator MITCHELL. Money that he had collected for a client?

Mr. COKE. Money that he had collected from Mr. Castle for a client, yes, sir; and had refused to pay over to him, although repeatedly demanded to do so. There is one other case especially I wish to bring to the commission's attention, and that is after he was appointed United States circuit judge by the President of the United States, there was a man by the name of Kaula was arrested in Wailuku, charged with assault with a deadly weapon, assaulting his wife and her mother. They were assaulted, these two persons, with an ax, and the facts were that he did assault them and cut them all to pieces, and they were in the hospital for quite a while afterwards recovering from this assault. I was asked by one of the relatives to go to the jail—

Senator MITCHELL. Whose relatives?

Mr. COKE. One of the defendant's relatives. He was arrested and placed in jail awaiting trial, and I was requested to go and interview him in regard to mapping out his defense, and I went to the jail and saw the defendant. He was in the prison yard, and he stated to me that Judge Kalua had already been to see him and told him that he would furnish bail for him and later would help him when his case came on for trial before the circuit judge; that he was to waive examination by the district magistrate and come up before him and plead

guilty, and that he would let him off with a light fine. The man did just as he stated he had been instructed by Judge Kalua to do. At the trial, held here at Wailuku, he plead guilty and was fined \$75; the two charges he was fined \$75 each, or \$150. At that time, or it was about the time that he was fined, Kaula, the defendant, executed a deed to Judge Kaula's wife of his property in Wailuku, and I have these deeds on record in my office.

Senator MITCHELL. What was the maximum penalty that could have been imposed?

Mr. COKE. I think it is five years' imprisonment—either two or five years. This was an aggravated case—one of the worst I have ever seen.

Senator MITCHELL. What was the value of this property transferred to the judge's wife?

Mr. COKE. Judge Kalua told me that the same property—not so very long ago, when I wanted to buy it, he told me he was willing to take \$250 for the property.

Senator MITCHELL. Do you know what claim he ever made, if any, how he came to get the property for his wife?

Mr. COKE. He made no claim at all, only that this had been deeded to his wife—no explanation.

Senator MITCHELL. Anything else?

Mr. COKE. There is another defendant, by the name of Coelho, who was charged with the larceny of hogs. I defended him in court, and he was acquitted on a technicality. He was later on arrested again, in which I did not defend him. I had nothing to do with the second case. He made to me practically the same statement that this Kaula made. He told me that Judge Kalua had told him that he intended to help him when his case came on for trial. He came up, plead guilty, and was fined \$25.

Senator MITCHELL. That was a case of larceny?

Mr. COKE. Larceny of hogs.

Senator MITCHELL. Grand larceny?

Mr. COKE. Larceny in the second degree. Property under the value of \$100 is considered larceny in the second degree. At the same time there was a Southern negro brought up for stealing some \$700 or \$800 out of a store, and this negro was sentenced to imprisonment for life for his offense and he is now serving his term in the Oahu prison. I do not consider there is any justice.

Senator BURTON. Can you impose a sentence of life imprisonment for burglary under the existing laws of this Territory?

Mr. COKE. Yes, sir; and this man was sentenced to imprisonment for life. That is the law of this country to-day. Judge Gear here will verify it.

Senator MITCHELL. Are there many such cases?

Mr. COKE. There are a great many cases of malfeasance in office which I could cite, all chargeable to Judge Kalua, and which would convince any fair-minded man that he is not a fit man to be circuit judge.

Senator MITCHELL. Is there many cases where they have been sentenced for life?

Mr. COKE. Never before that I know of.

Senator BURTON. Can you send a man to the penitentiary for life for embezzling government funds?

Mr. COKE. I can not say, but I know that the law permits a sentence for life for burglary.

Senator MITCHELL. Mr. Coke, are you familiar with the law and practice here by which vacancies in the supreme court are filled by calling in members of the bar?

Mr. COKE. I know what the practice has been, not only since annexation of these islands, but before the going into effect of the Territorial act.

Senator MITCHELL. Is that practice continued under the present régime?

Mr. COKE. It is; yes, sir.

Senator MITCHELL. What is it?

Mr. COKE. The practice has been, to my knowledge, that the attorneys of the supreme court were often called to sit as associate justices of the supreme court.

Senator MITCHELL. What do you think of such a practice in the interest of good government?

Mr. COKE. I do not think it is proper; I do not understand why it should be. I remember in 1898 it seemed to me about one-half of the lawyers were called to sit on the bench from first to last.

Senator MITCHELL. They are not sworn when called in?

Mr. COKE. I could not say as to that.

Senator MITCHELL. But it is quite a common practice?

Mr. COKE. It was at that time. It seemed to be a distribution of favors from one attorney to another, and they were called to sit as associate justices, and after one sitting was over the next day another would be on the bench.

Senator MITCHELL. Passed it around among the members of the bar?

Mr. COKE. It looks that way.

Senator MITCHELL. You recommend a change, do you?

Mr. COKE. I would; I do not think it is right.

Senator MITCHELL. Anything else?

Mr. COKE. The matter of the charges that my colleague, Judge Kepoikai, has preferred against the judge of the circuit court, I will say if the commission wants us to we will supplement these oral charges with written charges. It is high time that some change was made.

Senator MITCHELL. We will be very glad, Mr. Coke, if you will furnish us with such charges as you may think proper to be made against this judge in writing.

Mr. COKE. We will.

Senator FOSTER. How many lawyers are practicing before the bar of this island under this judge?

Mr. COKE. There are a good many what we call district-court lawyers. They have a license to appear in the district court, in the circuit judge's chambers; that is as far as they can go; they can not go before the supreme court nor before the circuit court of the term.

Senator FOSTER. Well, how many have you for the first-class attorneys?

Mr. COKE. Well, there are about five or six on this island of Maui.

Senator FOSTER. How do they feel? Do the majority of them feel as you do in reference to this judge?

Mr. COKE. There is, perhaps, I think, one exception; otherwise the feeling is unanimous.

Senator FOSTER. Will they be willing to sign the charges?

Mr. COKE. Certainly; without question. And Judge Kepoikai reflects the sentiment of the others when he has already stated that Judge Kalau is not competent as a circuit judge and should be removed.

Senator MITCHELL. What salary does he get?

Mr. COKE. Three thousand dollars, I believe.

Senator MITCHELL. Anything else, Mr. Coke?

Mr. COKE. That is all.

JAMES L. COKE recalled.

Mr. DE KNIGHT. What is the sentiment here in regard to the Queen's claim against the United States?

Mr. COKE. I think that the sentiment is that she should be remunerated in some way for her losses occasioned by the taking away of her revenues by the acts of the United States Government.

JONAH KALANIANAOLE sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. KALANIANAOLE. Jonah Kalanianaole; age, 31; residence, Honolulu; occupation, capitalist.

Senator MITCHELL. State whether you are the nominee at the present time of any party for Representative in Congress; and if so, what.

Mr. KALANIANAOLE. Yes, sir; of the Republican party as a Delegate to Congress; have been nominated by the Republican convention.

Senator MITCHELL. Are you a native of the islands?

Mr. KALANIANAOLE. Yes, sir.

Senator MITCHELL. Have you resided here the most of your life?

Mr. KALANIANAOLE. Most of my life, only for a few trips away.

Mr. DE KNIGHT. Are you acquainted with the claim that has been made by the Queen?

Mr. KALANIANAOLE. Well, I have heard of it.

Mr. DE KNIGHT. What is the sentiment of the people of the Hawaiian Islands in regard to her claim for damage done by the United States in the landing of the troops and the overthrow of her monarchy, and for the Crown lands?

Mr. KALANIANAOLE. From a Hawaiian point of view, of course, we have always, as far as I know—is that they have always claimed that the Crown lands have always belonged to the monarch. Of course, they never knew of such a thing as what will happen in time; they never looked ahead. I do not suppose they ever believed there would ever be anything else but the monarchy.

Mr. DE KNIGHT. In regard to the damage by the United States, do they feel that the United States damaged her?

Mr. KALANIANAOLE. Well, I suppose that is the feeling of all the Hawaiians. That is the view they take.

Mr. DE KNIGHT. Do they feel that the United States should pay her for the damage that has been done her?

Mr. KALANIANAOLE. Well, of course I can not say whether they look to the United States or—

Mr. DE KNIGHT. Do they feel that she should be paid?

Mr. KALANIANAOLE. Oh, I think as far as the Hawaiian people are concerned—as far as the majority of her followers here—I think they all have that feeling.

Senator MITCHELL. You say that the Crown lands were held by the government—by the sovereign. You mean that they were held by the government or by any particular person?

Mr. KALANIANAOLE. Well, by the monarch.

Senator MITCHELL. Were they held by the monarch or by any particular person connected with the monarchy—the Queen, for instance, or the King, or any of the princes?

Mr. KALANIANA'OLE. Oh, no; they were simply held by the monarch that was reigning at the time. Of course, with the Hawaiians, of course there have been so many laws passed, too, that they have always, even from the time before they were civilized until this day—you will always find that feeling among the Hawaiians, that everything belongs to the chief. They were brought up under that—have always been that way. This is something new to them. They have new ideas. Perhaps that feeling is somewhat dying out with the Hawaiians, but even to this day the Queen is looked upon as something more than Queen to the Hawaiians.

Senator MITCHELL. Suppose there had been no overthrow of the monarchy and the then Queen, the present ex-Queen, had died and the young princess had become Queen, would the title to the lands have been lost?

Mr. KALANIANA'OLE. They would rest with the young princess.

Senator MITCHELL. The land would not go to the heirs of the Queen?

Mr. KALANIANA'OLE. No; it goes with the Crown.

Senator MITCHELL. Who do you understand was responsible for the overthrow of the Kingdom?

Mr. KALANIANA'OLE. As we believe from a Hawaiian point of view, it was done by the American minister.

Senator MITCHELL. Who was he?

Mr. KALANIANA'OLE. Mr. Stevens.

Senator MITCHELL. Why do you believe that he was responsible?

Mr. KALANIANA'OLE. Why, his actions all through the trouble at the time.

Senator MITCHELL. Would there have been an overthrow of the government, in your judgment, if the American troops had not been landed here?

Mr. KALANIANA'OLE. I do not think there would have been.

Senator MITCHELL. What was the claim made by the people here, if any, for overthrowing the government?

Mr. KALANIANA'OLE. The claim was made that the American minister, by the landing of the sailors, was the cause of it.

Senator MITCHELL. What was the objection to the government, if any, the monarchy?

Mr. KALANIANA'OLE. They claimed that she was trying to claim a new constitution, I suppose, the men familiar with it; I have never made a study of it, of course; I was not here at the time.

Senator MITCHELL. How many troops were landed here, do you know?

Mr. KALANIANA'OLE. I don't know exactly.

Senator MITCHELL. From what vessel were they landed?

Mr. KALANIANA'OLE. From the *Boston*.

Senator MITCHELL. Who was in command of the *Boston*?

Mr. KALANIANA'OLE. I think Wiltse; I think Captain Wiltse.

Senator MITCHELL. What is the character of these Crown lands generally, if you know?

Mr. KALANIANA'OLE. Most agricultural lands.

Senator MITCHELL. They are leased out, are they, by the government?

Mr. KALANIANA'OLE. Yes, sir.

Senator MITCHELL. Have you any knowledge as to the character of the leases; what is being paid an acre?

Mr. KALANIANAOLE. No. Of course at the time of the monarchy I suppose he had the right to lease to whoever he liked and at whatever price he liked.

Senator FOSTER. Could he cancel the leases at any time?

Mr. KALANIANAOLE. I suppose, if the terms were broken.

Senator MITCHELL. Who received the rents and profits of these lands during the monarchy?

Mr. KALANIANAOLE. They had a commissioner of Crown lands.

Senator MITCHELL. Did not the money go the Queen to be distributed at her will?

Mr. KALANIANAOLE. Yes, sir.

Senator MITCHELL. She could do as she pleased with it, could she?

Mr. KALANIANAOLE. Yes, sir.

Mr. DE KNIGHT. Do the Hawaiians love the Queen as much as they ever did?

Mr. KALANIANAOLE. Oh, yes; I have no doubt about that.

Mr. DE KNIGHT. So that they would be pleased to see her receive some recognition?

Mr. KALANIANAOLE. Yes; that is my belief.

Senator MITCHELL. Do you know what she is receiving now from the local government?

Mr. KALANIANAOLE. I do not know; either \$4,000 or \$6,000; I am not sure.

Senator BURTON. You think that it would be well received by all of the Hawaiian people if the Queen was paid a reasonable sum of money as compensation for the loss of her throne and for the property that was taken away from her?

Mr. KALANIANAOLE. Oh, yes; I have no doubt about it; I believe all the foreigners would.

Senator BURTON. Do you think that if the Queen was paid in this way it would have a tendency to create a good feeling on the part of the Hawaiians—I mean the native Hawaiians—toward the American people?

Mr. KALANIANAOLE. That is my belief.

Senator BURTON. So that you, as I understand it, favor the Government reimbursing her in that way?

Mr. KALANIANAOLE. Yes, sir.

Senator BURTON. Do you think the business interests, the white people, would also approve of it?

Mr. KALANIANAOLE. I believe so.

Senator FOSTER. Then, in case the Government does not, how would the people feel in case the Territory of Hawaii paid that?

Mr. KALANIANAOLE. I suppose, if they can afford it, I suppose they do not mind.

Senator FOSTER. Do you think they would be willing to?

Mr. KALANIANAOLE. Yes.

Senator BURTON. They would be willing to pay her well if the Government would give back to the Territory of Hawaii the Crown lands?

Mr. KALANIANAOLE. I believe so, because I believe there was a sum appropriated by the last legislature, I think \$100,000 or \$150,000, for compensating her.

Senator FOSTER. That was vetoed?

Mr. KALANIANAOLE. Yes; that was vetoed, but the feeling was there among the Hawaiians.

(Witness excused.)

CECIL BROWN sworn:

Senator MITCHELL. I believe you have been sworn, Mr. Brown?

Mr. BROWN. I have.

Senator MITCHELL. You can answer such questions as counsel present desires to ask you.

Mr. DE KNIGHT. How long have you resided in the Hawaiian Islands?

Mr. BROWN. It goes on fifty-two years. I was born here, in other words.

Mr. DE KNIGHT. You were at one time connected with the monarchy?

Mr. BROWN. I was the last but one of the attorney-generals before the overthrow, with Mr. P. C. Jones as minister of finance, N. P. Robinson, minister of foreign affairs, and George N. Wilcox, minister, and I was attorney-general.

Mr. DE KNIGHT. After the overthrow you became an annexationist?

Mr. BROWN. I did.

Mr. DE KNIGHT. At the time of the establishment of the provisional government did you hold an office under the government?

Mr. BROWN. I did; I was one of the advisory counsel under the provisional government.

Senator BURTON. Are you one of the famous thirteen?

Mr. BROWN. I was afterwards; originally I was not with the movement. I left one of the meetings when they said the idea was the hauling down of the Hawaiian flag, and I said I was not ready for it—the meeting when they asked President Dole to become head of the movement.

Senator BURTON. Was that before the proclamation was read?

Mr. BROWN. Yes, sir; Mr. Dole was to give his answer the next day at noon, whether he would take the position at the head of the government, and the meeting at that time I left, as I was not ready to see the Hawaiian flag come down. But afterwards I became an annexationist—some five or six weeks afterwards.

Mr. DE KNIGHT. Are you at present president of the First National Bank of Honolulu and also a member of the Territorial senate of the Territory of Hawaii?

Mr. BROWN. Yes, sir; I am.

Mr. DE KNIGHT. Are you acquainted with the claim that has been presented by the Queen in the shape of a petition?

Mr. BROWN. I have heard of it.

Mr. DE KNIGHT. Do you know practically what she claims?

Mr. BROWN. I believe she claims recompense for loss of the Crown lands and their revenues.

Mr. DE KNIGHT. And for damage done her by reason of the action of the United States minister plenipotentiary?

Mr. BROWN. I believe so.

Mr. DE KNIGHT. What is your opinion in regard to the duty of the United States toward her in regard to that claim?

Mr. BROWN. I believe that it would be a graceful act upon the part of the United States to make some indemnity for what she has lost.

Mr. DE KNIGHT. Do you believe that the United States was responsible to a considerable extent?

Mr. BROWN. When it comes to that question, I think that the landing of the troops by the *Boston* made no difference in the movement, but it certainly intimidated the Queen and her followers by seeing the troops ashore, and I think it had a great deal to do with the overthrow; and I go on further and say this: I say that I think that if her minister, between the Saturday and the Monday, had arrested five or

six of the persons that were in the movement the thing would never have happened.

Senator BURTON. Would it have happened but for the attitude of the United States Government?

Mr. BROWN. I think it had gone so far that the people were pretty wild, but I do not think it made any difference by the landing of the troops, but it did intimidate the Queen and her followers.

Senator MITCHELL. Then it did make a difference?

Mr. BROWN. Yes; it prevented any bloodshed. I think if they had not landed there would have been bloodshed.

Mr. DE KNIGHT. And the result would have been uncertain?

Mr. BROWN. I do not know.

Mr. DE KNIGHT. The opinion among the business interests and the white people is what?

Mr. BROWN. Most Hawaiians, you may say, no matter to what party they belong—it is universal, and I think you take nine-tenths of the foreign white residents of the islands, and I think their answer would be the same as mine—that is, as to the indemnification for the losses.

Senator BURTON. You mean that she should be paid for her losses?

Mr. BROWN. Yes, sir.

Senator FOSTER. What do you mean by the foreigners?

Mr. BROWN. I mean the whites; I think nine-tenths of them, and maybe more.

Senator FOSTER. Citizens?

Mr. BROWN. Yes.

Mr. DE KNIGHT. Do you know what action the legislature took in regard to paying the Queen a lump sum?

Mr. BROWN. They brought in a bill, I think, for \$250,000, and it finally came down that she was allowed by the Territorial legislature, I think, at the rate of \$500 a month.

Senator MITCHELL. Did the legislature pass the bill, both houses, giving her \$250,000?

Mr. BROWN. I have forgotten; I know it was up.

Senator FOSTER. Was it not vetoed?

Mr. BROWN. It may have been; I have really forgotten that; they spoke against it for the reason that there was no money in the treasury. The principal objection was that the country was not in a condition to pay for it, and that they were willing to give her an annuity, but the country could not afford it then.

Senator MITCHELL. Has the Queen since annexation been in all respects a loyal citizen?

Mr. BROWN. So far as I know she has.

Senator MITCHELL. Has she ever done anything to your knowledge since then inconsistent with her status as an American citizen?

Mr. BROWN. No, sir.

Senator MITCHELL. Has she given loyal support to the Government of the United States, so far as you know, since?

Mr. BROWN. I think so.

HILO, HAWAII, *September 18, 1902—2 o'clock p. m.*

The following address of welcome was made by Hon. Gilbert F. Little, judge of the fourth circuit court:

MR. CHAIRMAN AND GENTLEMEN OF THE COMMISSION: Inasmuch as I take no part in politics while on the bench, I have therefore no statement of any kind to make to you. There are some amendments, however, that might be suggested as to the organic act that would inure to the benefit of the people of the Territory;

but your time is too limited to admit of the consideration of any amendments thereto. I have the honor, however, at the request of the citizens of Hilo, to extend to you a most fraternal welcome—first, on behalf of the citizens of Hilo, who are highly gratified to see the interest you manifest in the welfare of the Territory; and secondly, because no truer or more loyal American citizens can be found under the circuit of the sun than those who reside on this island and in the city of Hilo. They have risked their all upon the faith that the Congress of the United States would give to us American laws and the President would give to us loyal Americans to execute them.

History shows that this group of islands now composing our beautiful Territory, rich and fertile and of inexhaustible tropical resources, has been gravitating toward us for half a century or more, and the time seemed to have arrived when they should be taken in, for there was danger that any considerable delay might result in some other power asserting a control or making a claim which might have been troublesome. Immediate annexation seemed to be the better and safer course.

Since that time, however, we have experienced tempestuous partisan troubles, which have seriously checked but, we hope, will not roll backward the wheels of progress in our beautiful sun-kissed home in the midst of the great Pacific seas.

Senators, our people look hopefully to you, not for extravagant recommendations; but, since you have journeyed more than 5,000 miles to inquire into our needs along the various lines which shall hereafter be suggested to you by those who have been selected to perform that duty, it is to be hoped that you will enter into the spirit of our suggestions, so far as they may seem reasonable to you in the light of all the circumstances which surround our peculiar location. Our citizens make no professions of great wisdom, influence, or statesmanship, but they seriously believe we can only protect our constitutional rights and defend our sacred trust as citizens by keeping our vigilant eye steadily on the movements of those who would be oppressors by violating the laws of the country with which they are not in sympathy. They believe that every attempt to divert your attention, on the part of anyone proclaiming other and more important interests, or to lull those of us who are interested to sleep at our post of duty is but the act and effort of the enemies of good government. They believe that every attempt under the plea of "you are not familiar with our local conditions here," to convince you or others interested that there are any higher duties to perform than to preserve inviolate the sacred rights of person, property, and the pursuit of happiness is an assault upon the very existence of our government, a stigma on our judgment as citizens, and a sacrilege against God. Our citizens ask you to help measure out the metes and bounds of power in the various branches of our local government, and to establish by constitutional landmarks and statutory provisions lines of demarcation sufficiently strong to resist the present system of open disregard for our constitution and laws by those who have sworn to support and defend them and who assign as a cause reasons and conditions which all the world knows are false.

We speak to you as loyal American citizens who believe in one country and one flag. We speak to you, not in malice or prejudice; we wish evil to no one. It gives any loyal American citizen pain to know that to tell the truth as to these unfortunates now in control of our Territorial affairs and to whom the civilization of the United States seems utterly incomprehensible, inflicts it.

But, Mr. Chairman, if our citizens forbear to speak with indignant emphasis on these matters when you are here for the express purpose of learning the truth, after you shall have departed we should feel that the bond of sympathy which binds us to our fellow countrymen and assures their respect and confidence, had been broken asunder. We should feel that our hearts, instead of being loyal, patriotic, and true, were outlaws from the sacred precepts of the divine Nazarine, who pronounced the merciful blest because they were thoughtful of the rights and feelings of those who needed their assistance. In this spirit the citizens of Hilo come to you this day to make known the needs of this island, which contains 4,600 square miles and is more than twice as large as all the balance of the Territory, and of the little city of Hilo, with its beautiful harbor frontage.

Again expressing to you our supreme delight at your presence in our midst, I bespeak for each gentleman who shall appear before you in the presentation of the subject to which he has been assigned, the same thoughtful consideration which the author has bestowed upon the subject in its preparation, and on your return trip all of Hilo will bid you God speed and a safe journey home.

Senator MITCHELL. I presume it my duty and pleasure, upon the behalf of the committee of which I am chairman, to profess to you

and the people generally a deep appreciation of the cordial welcome you have given us. We come under the sanction of the United States to inquire into the conditions here. We are desirous of getting facts, so far as possible, and we are willing to sit day and night so long as we are here for the purpose of giving full opportunity to each gentleman who desires to be heard. We will now hear Mr. Peck.

Mr. PECK is sworn.

By Senator MITCHELL:

Q. State your name, age, residence, and occupation.—A. Philip Peck; 63 years; resident of Hilo; banker.

Q. How long have you resided in these islands?—A. Fifteen years.

Q. You are acquainted, I presume, with the condition of affairs in these islands?—A. Tolerably well.

Q. You can now proceed, Mr. Peck, in your own way, to bring to the attention of the committee such matters as you deem important.—A. I will say that at a meeting of the citizens the other day several committees were appointed, among others a committee on memorials, setting forth the needs of this town particularly. In the first place, as to a breakwater; another matter was a public building. We have a map prepared, showing the various tracts belonging to the Territorial government available for a public building and entitled to be used for the United States Government. There are other matters in the memorial relating to quarantine grounds, which is particularly necessary. During the plague in Honolulu, this place was kept clean by the efforts of its own citizens. There was no quarantine station established, but we kept communication so confined that the town was free from disease. We will present the paper, unless the committee desires to have me read it.

Senator MITCHELL. We should like to have it read.

(Mr. Peck reads memorial of the citizens of Hilo for the improvement of Hilo and the development of the island of Hawaii.)

By Senator MITCHELL:

Q. Mr. Peck, has there ever been any estimate by any responsible party of the cost of this proposed breakwater?—A. There has not.

Q. Have you any idea yourself as to the proposed cost?—A. The same question was asked me at Washington, and I could not answer it. I should not like to put it too high and should not care to put it too low.

Q. There is an ample depth of water? What is the depth of water at the wharf?—A. Twenty-one feet.

Q. What is the character of the ground there?—A. The last surveys that were made for the wharf, with the permission of the Territorial government, showed sand.

Q. How is it all around the front here?—A. That is practically the same.

Q. There would have to be wharves built out long distances in order to meet deep water?—A. It is proposed that the gentlemen of the committee go on the launch—the water is very smooth—and three gentlemen who are thoroughly acquainted with the harbor will go with you to-morrow morning or any time that suits you.

Q. You speak of the need of one or more Federal buildings here. Should there be more than one Federal building here?—A. No; one Federal building to accommodate the court, custom-house, post-office, etc.

Q. And government ground for a site can be obtained here without cost?—A. Without cost.

Q. Have you made any estimate as to the probable cost?—A. That would depend a great deal on the size of the building.

Q. You know about what you would like to have here, I suppose?—A. Well, I think \$100,000 would cover everything we need here.

Q. Has the free-delivery system been extended to your city?—A. Not yet.

Q. You have a money-order office?—A. Yes.

Q. You are acquainted with the system of taxation in this Territory?—A. Fairly well.

Q. Who directs the assessment of the property?—A. It is principally done by the assessors of the various districts.

Q. How are these assessors appointed?—A. By the government, an assessor for each district, who places the valuation on the property of the Territory.

Q. Have the assessments been satisfactory generally?—A. There have been some objections here and there, but there is an old law in this Territory that unless a man cares to pay the cost of his contest as to assessment he can not appear before the board of equalization, as it is called. It is cheaper for a man to pay his tax than to appeal.

Q. Do you and the people here generally favor the establishment of municipal and county organization?—A. I want to say for myself, being in the business I am in, that without it we are very awkwardly fixed, and it is only owing to the honesty of the people that we are not swindled more than we are. If we desire to make a loan to a person living here we have to go to Honolulu for a title. We have no county records, and must send to Honolulu and wait for an answer.

Q. In other words, the present system of government is an embargo on business?—A. It is, so far as we are concerned.

Q. Were you acquainted with the provisions of the bill passed at the last legislature on the subject of county and municipal organization?—A. I read that bill.

Q. Are you in favor of something of that kind?—A. It is too voluminous; there might be a better bill than that. It is a bigger bill than the city of New York has for its municipality. There is too much of it.

Q. There is no quarantine station here at all?—A. There is not. At one time we made a quarantine station of Cocoanut Island, where men, women, and children go to bathe. We had to keep them off then.

Q. Do you need any light-houses?—A. Well, we need quite a number of lights along the coast, but none in the harbor that I know of.

Q. Do you think it would be better for the Federal Government to have charge of the land laws and have them administered under the direction of the Federal Government rather than the Territorial government?—A. I am not sufficiently acquainted with the land laws of this Territory to answer that question.

Q. How far is it from Hilo to the nearest point where there is a good harbor on the mainland?—A. We are at about the same distance as Honolulu.

Q. Is there any harbor on this island anywhere near Hilo?—A. No; no harbor. During the winter season vessels plying between Hilo and the various plantations bringing sugar have been obliged to come into Hilo for safety.

Q. There has never been an estimate of the cost of a breakwater?—A. No, sir.

Q. We had some information about this jail here and the way it was kept. Do they keep men and horses and other cattle in there all together?—A. I was never in it.

Q. Do you know from reputation that that jail is not run the way it should be—or don't you know anything about it?—A. I don't know anything about it. The sheriff is here.

Mr. A. L. LOUISSON sworn.

By Senator MITCHELL:

Q. State your name, age, residence, and occupation.—A. My name is Abraham Lincoln Louisson. I am at present engaged in the cultivation of coffee on this island in the Hamakua district, located probably 60 miles north of Hilo. I reside on the coffee plantation. I was born in San Francisco in 1864. My father came to these islands when I was 2 years old. I have been engaged in coffee planting on this island for five years. I was an office clerk and bookkeeper, and owing to ill health left that and went to coffee planting with my brother.

Q. You had no experience in that business before you came here?—A. No, sir.

(Mr. Louisson reads his memorial in relation to protection for the coffee industry).

Q. What duty do you recommend?—A. I would recommend a duty of 5 cents; probably 3 would be all right. If we could obtain a duty which would cover the cost of gathering the berries it would pay us.

Q. What effect do you think that would have on the consumer?—A. I believe it would enhance the price somewhat, but not to the extent of the duty.

Q. To what extent are you engaged in the coffee industry?—A. I have about 200 acres, and have put much money into it. My brother Henry resided in San Francisco, and left there to come here and engage in the raising of coffee.

Q. What character of labor do you employ?—A. Japanese to cultivate the land; but for picking I have Portuguese women and children, boys and girls, who come to my place daily and work in the fields. It is light work, and all they have to do is to pick the berries off the trees and put them in bags, and a man with a pack mule carries the bags to the house.

Q. What wages do you pay?—A. Nineteen dollars a month to the Japanese who do the hoeing, but the picking I pay by weight; so the more they pick the more money they get.

Q. How many acres have you in cultivation?—A. About 200 acres.

Q. What other coffee plantations are there in this island?—A. The district where there is the most coffee is the Kona district, on the other side of this island.

Q. How much is in cultivation there? Do you know?—A. I made a trip over there four or five weeks ago, and I found that a majority of the plantations had been abandoned. Only one or two have been kept in cultivation, because the price has been so depressed that it did not pay to pick coffee any more, and the place is going to weeds.

Q. At what elevation is your plantation?—A. I am at an elevation of between 1,500 to 1,600 feet. I was in very poor health before going there, and have pretty well regained my health. The lower the coffee grows, the more shade the trees must have. Excessive heat is very detrimental to coffee culture. The higher you go the less shade is necessary.

Q. What is a day's work in picking—how many pounds of coffee?—A. Plantations are different. Where yields are large, such as I have had them, I have had a woman pick four bags in a day, weighing about 350 pounds, and I paid 50 cents a hundredweight. But that can not be taken as an average. Where the crop is light I should say that 125 to 150 pounds would be very good picking. Where the yield is heavy and the trees young and not crowded with secondaries coming out of the primaries a good deal more can be picked.

Q. What do you say to a bounty on coffee instead of a duty?—A. A bounty would serve as well.

Q. What would you recommend?—A. At least 4 cents a pound, to pay for the cost of picking.

Q. What do you estimate the cost of coffee to produce and ship to America?—A. It is like every other agricultural production. Some places, owing to natural advantages, would be able to turn out a crop more cheaply, but I should judge coffee could not be produced for the San Francisco markets at less than 10 cents a pound.

Q. When you pick coffee do you strip the plants entirely clean, or do you have a second picking?—A. Coffee ripens very gradually. Our picking season begins in January, and I am just through with it now. There are green berries and ripe ones on the trees, also flowers, during the ripening season. The higher you go the more gradually the coffee ripens.

Q. Is your coffee all of one grade—one price of coffee?—A. No, sir. The coffee tree produces a flat bean and a round bean, called the pea berry. The beans are graded according to size, and the price obtained according to size of the bean, the color, and age. Age improves the quality of coffee very much. If the planter is wealthy and can hold his crops he holds them. Coffee is not a perishable crop. I know of 120 bags leaving on the *Enterprise* and belonging to Mr. Gurtz, who has held the coffee so long that it has much improved in quality.

Q. Does age have the same effect on Rio, Brazilian coffee; does that improve with age, too?—A. I should think so, any coffee must with age.

Q. This coffee, you say, would cost about 10 cents a pound to plant and deliver in San Francisco. Is that the same grade as Brazilian coffee?—A. No, sir; far superior to the Brazilian coffee. About five years ago Hawaiian coffee sold in San Francisco for 19 and 20 cents. Now, the last sales I made netted me 11 cents, and to-day only the most favored plantations can exist.

Q. Is that owing to over-production in Brazil?—A. Yes, sir; and their advantage in paying in silver and selling for gold. I am told they pay only \$6 a month in Brazil for labor, and that in silver.

Q. How long does it take the coffee plant to produce?—A. I have planted most of my coffee from Guatemalan seed; it grows faster than Brazilian coffee. Four years from the time you plant you receive the crop.

Q. How long is it practicable to keep that coffee planted without changing?—A. That I am unable to state. It is said that in Central America the crop is profitable for thirty years, and in Porto Rico, where the soil is exceedingly deep, the trees thrive for seventy years; but we have not had long enough experience here.

Q. What is the enemy to coffee here?—A. I know of no enemy; I have been in the Kona district, and the trees are perfectly healthy; they have a very large crop this year.

Q. How expensive is the machinery required?—A. Very inexpensive. Alongside of me there are small settlers, Portuguese. All they

have is a little hand pulper, which they work by hand. The coffee must be fermented to get rid of the outside pulp. I have to have a drying house, machinery for that, and drying floors.

Q. Suppose Congress should fail to extend any relief in the way of bounty, should you feel compelled to abandon the industry?—A. I am located in one of the most favorable coffee districts in the island, and I think I can survive, but most of the other plantations have gone to the wall.

Q. Mr. Louisson, a member of Hackfeld & Co., made the statement that they had written off \$300,000 as a loss in coffee. Do you know what that is caused by?—A. Where was this loss incurred?

Q. I don't know; I supposed you would know.—A. Well, from what I understand, the coffee did not seem to thrive well in certain places and coffee did not produce in certain districts. But that is not a criterion for the whole of the islands, because if you want to see an enormous production all you have to do is to come to my place and look at the coffee.

Mr. PECK. I can say for myself we have now 420 acres of coffee near Hilo, but we have abandoned it. The loss of Hackfeld & Co. was caused by buying large areas from people; they sold it to the sugar companies at \$50, the principal cause of loss; they had contracts with the people for ten years to supply them with a certain amount a year. The people could not afford to pick the coffee under present prices of labor; they simply had to give it up.

Q. Mr. Peck, what do you say it costs to grow a pound of coffee?—A. When labor was plentiful and we were paying \$12.50 a month to laborers, and they were glad to get it, they worked faithfully for us; but since the scarcity of labor they ask \$1 a day, and at the rate they are working coffee would cost us 16 cents a pound. Our 425 acres of coffee are lying there in weeds. There is another thing, which Mr. Louisson did not speak of. In Central American countries they charge an export duty of \$2.25 in gold, and of course the people of the United States have to pay that.

Q. What do you recommend, Mr. Peck, if anything, to protect the industry here and promote it?—A. These islands charge 7 cents a pound for coffee brought to these islands. A small duty would not help us against the cheap labor of South America. I think a bounty would help us more.

Q. Anything else you wish to state, Mr. Louisson, in regard to the coffee industry?—A. No, sir.

Q. Or you, Mr. Peck? A. No, sir.

Q. How many pounds of coffee do you get for an average crop?—A. Our trees, when 3 years old, average $1\frac{1}{2}$ pounds to a tree. In order to keep up the crop of coffee, it would require very heavy fertilization with potash.

Q. What is the cost per acre of fertilizer?—A. I did not try it. I calculated that the more coffee I produced under certain conditions the poorer I should be.

Q. Is not this a better country for coffee than Brazil and South America?—A. Yes; a better quality of coffee. The coffee of these islands is not so bitter as the Brazilian coffee; it has not so much caffeine in it, and one can drink this coffee with less injury than any other.

Q. The Guatemalan coffee is always about an even price, is it not?—A. It fluctuates now. I have seen a letter from a gentleman formerly employed in San Francisco. We thought we would take our machinery

to Guatemala to be sold. He wrote: "You may sell your machinery, but can you get your price for it? The planters in Guatemala are mortgaged up to their necks." If they are mortgaged on account of the low price of coffee, how can we exist unless something is done to help us? That we can raise the coffee there is no question, but we can not compete, principally on account of the labor question. We can not pay a dollar a day and sell our coffee at a profit.

Q. Can you get enough labor?—A. No; we can not get enough labor. I entered into correspondence with the Secretary of War and the Secretary of the Navy and asked that all commissary coffee be purchased from us, but that was not done, for what reason I do not know.

Mr. A. B. LOEBENSTEIN sworn.

By Senator MITCHELL:

Q. State your name, age, residence, and occupation.—A. Albert Brown Loebenstein; surveyor and civil engineer; resident of Hilo; age, 45.

Q. How long have you resided in Hilo?—A. Twenty-four years. Twenty-five years on the islands, almost continuously in the town and district of Hilo.

Q. What particular subject do you wish to bring to the attention of the committee?—A. I desire to bring before the committee the matter of the public lands of the Territory of Hawaii, with special reference to the expediency of revising the same, either by enacting such further laws as might be in line with American ideas and American principles, or else in the elimination of the law as it exists on the statute books to-day and the substitution in its place of our own Federal statutes regulating the acquiring and disposition on the part of the Federal authorities in the matter of the public lands of the Territory, for the reason that unless some action is taken, and that speedily, there will be but little left of the public lands in this Territory.

Q. Please state briefly the present system in regard to the disposition of the public lands of this Territory.—A. The so-called public lands act of 1895 is a law of Mr. Dole's creation, and was discussed at the special session of the first legislature under the Republic of Hawaii in 1895. It contains certain features which, while they approach our own American system, have also embodied in them the system in vogue in New Zealand, and also contain features which I question very much can be found in the system of laws of any constitutionally governed country of the present day.

Q. What are these particular features to which you refer?—A. The different conditions under which public lands may be obtained or acquired by the intending purchaser or settler are as follows: The right of applying for public lands under so-called conditions of a right of purchase lease; that is one condition. Another one is that of acquiring lands under the conditions and privileges of cash freehold agreements. Another one, again, of inalienable homestead lease for a term of 999 years which, if I am not mistaken, was passed with special reference to the peculiar characteristics of our Hawaiian fellow-citizens at that time. Also a further condition, that of obtaining land under a certain provision called settlement association conditions, which embody the principles of a right of purchase lease with the privilege of a certain number of individuals, not less than six, obtaining lands in large blocks. Now, the operation of this law, which has been in evidence since its enactment in 1895 up to the present

day, appears to me at least, in view of the fact that American sovereignty has covered this Territory, as being un-American, unprogressive, and unless speedily checked by most radical legislation, either through an entire elimination of the present features of this act as now administered, will result in the Territory being barren of public lands for bona fide intending settlers.

Q. Now for specific facts. You stated, if I have understood you, four ways in which the public land of this Territory may be disposed of under existing laws. The first is by a lease under specific conditions.—A. A citizen may apply for certain land under a right of purchase lease, which gives him a certain period of time wherein to pay the full purchase price which has been set apart by the government as the purchase price of that land, obtaining a patent after a certain period.

Q. Are these lands appraised in advance of applications?—A. They are. The American system of a maximum and a minimum price of public lands set apart by the proclamation of the President, under the fixed laws, does not exist here.

Q. You have stated, if I understand rightly, four ways of disposing of the public lands; is that so?—A. I have, and will include one more.

Q. Then that is five. Take up the first and tell us just what it is and how it is.—A. I have prepared a memorial which I think explains the whole thing.

(Mr. Loebenstein here reads memorial on revision of the Hawaiian land laws.)

Senator MITCHELL. This paper is in the main a criticism of the executive.

A. A criticism of the methods of acquiring land.

Q. What is the greatest number of acres any one person can obtain now under existing laws?—A. One thousand two hundred acres of the public lands.

Q. What kind of a title does he get?—A. He gets a title in fee simple for that property after complying with the conditions.

Q. What do I have to do, if I am a citizen of this Territory, to obtain a tract of 1,200 acres; to whom do I apply; what is the process by which I acquire title to that land?—A. The lands are divided into certain degrees of desirability—first-class agricultural land, second-class agricultural land, first-class pastoral land, second-class pastoral land; the maximum amount of 1,200 acres applies to what is designated as second-class land. First, you apply to the local subagent of the district. He is not empowered to either grant or decline, but must send forward your application to the commissioner of public lands.

Q. Then what is the next step; what does the law say shall be done next?—A. The commissioner is the responsible party and the one who is supposed to be the official head of that particular department to make allotments.

Q. Assuming that he is honest, a man of integrity, and means simply to execute the law as it is, what is the next step under the law?—A. The next step under the law is to give public notice of the fact that applications for this particular tract of land under the conditions of a right-of-purchase lease, according to the land act of 1895, may be received at the office of the subagent of the district within whose jurisdiction this land may be. The public is notified that applications will be received.

Q. Suppose applications come in after mine for that particular piece of land, what then?—A. Under the law the first application has

the preference, inasmuch as the law provides that the day and the hour in which the application is received shall be carefully noted down on the application, and the first application shall receive the preference.

Q. Now, can I be deprived of that preference under the law?—A. You can not be under the law.

Q. No matter who else comes in I am entitled to that lot?—A. Yes.

Q. Then what is the use of having any competition?—A. That is just what we are kicking about. We don't know why, but it is done.

Q. Does the law require notice to be given or does it not; after I have made my application does the law require the commissioner to give notice?—A. Not that I remember.

Q. Are you familiar with the land laws?—A. Well, I believe I am. I was land agent for nine years, up to the promulgation of the new constitution of the republic of Hawaii, under which the land act was established, and am more or less familiar, but details may have evaded my recollection.

Q. Your idea of the law, then, is that I make my application in the case I have stated to the subagent and it is sent up to the commissioner and then I am entitled to a patent; is that it? What is the publication made for?—A. In order to notify the public that certain lots shall be open for entry after such and such a day.

Q. Why do they notify the public if no one can take the land away from him?—A. That is one of the anomalous conditions to which I have tried to call attention. An application was made by a party or parties for the acquisition of a piece of land situated in the district of Puna. As a result advertisement was made in the press that on such and such a date applications will be received, under the conditions of the land act of 1895, calling for right of purchase leases that a certain tract of land—

Q. Who applied for that?—A. That the public knows nothing about; they are kept in the dark. That after such and such a date applications will be received for this particular piece of land at Puna, Olaa, containing 999 acres, more or less, at 50 cents an acre. Ten days before the time advertised for the opening of this particular tract parties fell in line in front of the office of the subagent here in this city. They remained in line during those ten days. When they left the line other fellows came in line to take their places and relieve them. I know of fifteen or twenty Japanese, Porto Ricans, Hawaiians, etc., some probably after this land, some after other lands, inasmuch as a bunch of lands was advertised to be open for entry at that time.

Q. Who got the tract?—A. A man who had not applied for it.

Q. How did he get it?—A. Simply by being the first to hand in his application after the time fixed.

Q. Have you found out who the man was who applied for it; do you know that it was not the man who got it?—A. Yes; from my own personal knowledge. He told me he was not the original applicant.

Q. Did the man who did get it get somebody to apply?—A. He had men in place there for the ten days preceding the date before which the lands were supposed to be open for entry, and a few minutes before the time when the doors were to be open he appeared and took his place and received his receipt for moneys paid. He himself is not a man who under any circumstances could carry out the conditions imposed under that particular section of the land act.

Q. Did he get it for himself?—A. He got it for somebody else.

Q. Did he tell you this?—A. No.

Q. How do you know it, then?—A. Well, we know a great many things without their being told us. I know it to a moral certainty. I could take oath to that effect.

Q. Do you know of any large tract of land on the island of Hawaii—do you know of the land commissioner putting up at auction a small tract on the inside of it where nobody could bid against the applicant?—A. I might, but I can not recollect it.

Q. The land divisions are agricultural first class, second class; pastoral first class, second class, with the right of forest reserves, and with the right of the commissioner to say where the forest reservation shall be. Is that it?—A. Yes, sir.

Q. So that a good deal of latitude is allowed the department in shifting from one to another if occasion requires?—A. That is the fact.

Q. If the land commissioner wants to stop an enterprise he can simply say that it is forest up there, can he?—A. Yes.

Q. Or if he wants to favor somebody he can call one pastoral and one agricultural?—A. I presume he could if he wanted to; his powers are far-reaching under the law.

Q. Is there a strong sentiment over here in Hawaii for homesteads?—A. The homesteads as we understand them.

Q. Holding land in fee by small holdings?—A. There certainly is for American homestead laws.

Q. What is the aggregate amount you would allow one to have under the homestead law?—A. As in our own statutes the minimum is 40 acres, make the minimum the maximum for Hawaii.

Q. Would it not work still better if reduced to 20 acres for homesteads instead of 40?—A. It would depend upon the locality. In Hawaii we have lands which would come in under the head of desert land, in which case a double amount would be more desirable. A great many lands on this island are black, bare strips of lava, with little oases of desirable house-lot grounds upon them.

Q. Do you think it would be advisable for the Federal Government to take control of the lands instead of the Territorial government?—A. Why, certainly; that is the cry on every hand. The operation of the American statutes would work equably and give the people the justice they have not obtained under the Hawaiian statutes.

Q. Why do they form a line, the purchasers of these lands?—A. The first chap that gets his application in gets the preference. A case in point is one which occurred in this very town a month or more ago, when different parcels of land in Puna were advertised at a certain date. A number of those who lived on the particular tracts of land for years, their fathers and their forebears before them, were unable to obtain the lands on which they lived in view of the fact that outsiders came in and were before them on the line.

Q. To what use would the homesteads be put?—A. The planting of taro, which is the mainstay of food among the Hawaiians, has diminished of late years in view of the lessening number of Hawaiians, and the areas planted have become less. The Hawaiian with industry can take this tract and plant taro and dispose of it to advantage, or he can raise fruits—pineapples and other fruits, like oranges and lemons—which can be exported to San Francisco and arrive there at a time when the market can not be supplied by Mexico or South America.

Q. You think many people would desire those homesteads?—A. Yes, sir.

Q. Are there good coffee lands among those public lands?—A. This is the coffee island.

Q. How do cocoanuts thrive?—A. Cocoanuts take a long period to arrive at maturity. The Samoan cocoanuts can be brought to maturity in five years, but they do not thrive here.

Q. Does the century plant grow here?—A. It grows rank, wild; but we have not the labor to develop it.

Q. How about grapes?—A. Grapes grow well, but we have not many for sale.

Q. How about bananas?—A. Bananas grow with but little cultivation and within a few years, with the development of commerce between this port and San Francisco, with proper protection to our harbor, the export of bananas here would exceed that of Honolulu, as the climate is especially adapted to the raising of bananas. The island of Oahu exports merely the Chinese banana, while on this island are many varieties.

Q. How about rice?—A. We have lowland rice, like the sea-island cotton of the Carolinas.

Q. Do your people favor municipal and county government here?—A. The people do; yes, sir.

Q. Do you know why you have not had county or municipal government since annexation?—A. We have had only one legislature in session since annexation, and as a good Republican I must say that the Hawaiian independent party was more alive about the expediency of county and municipal government than our own party at that time.

Q. A bill passed the legislature and was vetoed; is that the fact?—A. That is the fact; the centralized form of government which has existed here, finding its powers liable to disappear under county or municipal government, would of course use its best efforts to defeat it.

Q. Was it a pocket veto?—A. Yes.

Mr. BOYD. You have made some statements that when applications were made for homesteads those who were eligible to wild land have been put in a waste basket or pigeon holed.

A. I said that applications had been ratified by the existing government which, if a due degree of caution and interest in behalf of the public service had been observed, would have been thrown in a waste-basket, if the records are not at fault and the press have not misrepresented the facts. An application for land under the provisions of the land act empowering settlement associations, a settlement association headed by John Baker and others, had been approved of by the executive council. John Baker is a reputable and respectable citizen of this community, known all over the islands as a man of wealth and standing, and has had allotted to him a tract of most valuable land, which he occupies at an annual rental of \$3 or \$4. He also owns a tract at Waiaimea. Had a due degree of caution and regard for the public service been the dominating keynote of the executive, that application would have been thrown in the wastebasket. Another settlement association was one headed by Thomas E. Cook, with a number of others, immediately back of the 12 or 13 miles on the Volcano road, a tract consisting of over 300 acres, the members of that association being composed almost entirely of government officials, one of them an official in the land office of this town and the head of this association being a personal friend of the commissioner of public lands. This tract at 13 miles was allotted to these gentlemen, who are in every respect worthy citizens and a number of them personal friends of mine, at a fixed price, an appraised value of \$12 an acre. The lands in that particular locality were sold to the Olaa Sugar Company for \$100 and \$150 an acre. There are settlement associations galore

on this tract of Oloo from 13 miles to 29 miles. Near 29 miles a tract of 14 acres was ratified to a settlement association, every one of whom is a man of means. I do not believe it is in the interests of the public service or the development of this Territory that land in large blocks should be gobbled up by a few men, when that same block of land, subdivided into small tracts, would have been a benefit to a larger number.

Q. Brought in more revenue to the government?—A. Certainly. Many of these associations to whom land was allotted are not in a position to develop the land. It is safe to presume they are holding these lands for the purpose of speculation.

Q. You have made a statement that the Territorial officials, and more especially the land department, have been in collusion with the money interests of the country?—A. I said there was an impression conveyed of collusion. I did not state it as a positive fact, but that the indications pointed that way. I say, furthermore, that not one of these settlement associations has complied with the law in respect to residence and cultivation of the land which has been allotted to them under the present laws.

Q. Have they obtained their titles, any of them?—A. They can not without conforming to the conditions.

Q. Then the public domain is protected in that way?—A. No; because that much land is set aside and can not be touched by settlers with bona fide intentions.

Q. They can not receive permanent title unless they do comply with the law?—A. No; but it takes away the land from public use. I stated that the officers supposed to execute their duties in conformity with the law were derelict in that they had allotted these lands to people without due inquiry into their intentions as compared to bona fide settlers. The powers do not scrutinize whether or not these applicants are properly entitled to the land.

Q. Can Mr. Baker perfect his title if he is not an eligible applicant for the land?—A. No; nor can he be an applicant in the first place if the executive powers have a due respect for the law.

Mr. BOYD. I wish to make a brief statement, that an erroneous impression may not go forth. In respect to settlement associations, six or more persons can apply for a certain tract of land which can be subdivided out of a public domain. This is done for those homesteaders who would make bona fide homesteaders; they are given this privilege of settlement associations. This law has had a long standing and has never been questioned that I know of. This thing has been carried on with good intentions—not one iota of favoritism—and if it was my personal friend as an applicant of any settlement association, I should say he had just as much right as any one to acquire such land. Mr. Baker applied for himself and for his associates.

Q. Is that lawful?—A. As an attorney, yes.

Q. Then the law can easily be evaded?—A. The list of names comes afterwards and is signed by each individual applicant.

Q. Then, Baker, if he took a notion, could make the application, reserving the names, and by and by fill in. Is that the fact?—A. The list of names of his associates must be given before he signs the application for them.

Q. Let me understand. Suppose Baker should have a dozen names of a dozen different applicants; would he have to sign it John T. Baker for each one—name each one?—A. No, sir; he signs as attorney

for the applicants; then the applicants' signature is attached to the application itself.

Q. Mr. Baker appears simply as their friend or lawyer?—A. Yes.

Q. What do you say about this 999-acre tract?—A. Mr. J. H. Moran applied for 999 acres of very rocky land. There is an oasis here and there of very good land, but not much. As an enterprising man he came to the government and asked that the land be put up, because he wanted to experiment on that land for a dairy farm.

Q. Is he a public officer?—A. He draws his pay per diem. After consideration we came to the conclusion that it would open up other enterprises of similar character. That is the only reason why the government took the matter up.

Q. Did he come in line and did he get the land?—A. No, sir; because the law distinctly states it must be advertised, and the first applicant who deposits the first application fee becomes the owner.

Q. Did you advertise who made the application?—A. No, sir; that is not made public.

Q. Why did not this man get that land?—A. Because he was not first in line.

Q. Then there is no advantage at all in making the first application—he is not preferred in any way? The man preferred is the one first in line, on the barber-shop plan?—A. We have not been criticised by the press and have not heard any public criticism.

Mr. LOEBENSTEIN. I should like to make a supplementary statement. In respect to this 999 acres, by the commissioner's own statement, a due regard for the best interests of the public service would demand that if there were any agricultural land upon this 999 acres it should have been segregated and the remaining portion allotted under that section which specifies pastoral land. There was a frontage of over 2,000 feet on one of the main government roads which was eminently fit for small homesteads for the Hawaiians who either lived in that locality or would have been willing to take lots in that locality from its proximity to the bay, where the fishing is better than in any other portion of Puna. During my last visit to Honolulu, in April, when I was about to address a communication to the President of the United States in regard to public lands, I made a request of the land office for information as to past transactions. I desired to get up a statistical record to present to the Senate of the United States. It was denied; their instructions were to give no information. Naturally, I was quite hot over the matter, considering that as a public citizen and taxpayer I was entitled to that information. Going down Merchant street, where the little telephone building stands, I met Mr. Cooper, who was coming up from the business part of town. I made the request of him, and he replied, "I don't know about that; we are not in the habit of making this information public." I answered that I should address my remonstrances to Washington. In a few minutes after arriving at my destination I received a telephone message from Mr. Boyd. I narrated what had occurred, and he said, "I had a talk with Mr. Cooper, and I believe you were justly entitled to the information."

Q. You spoke about the land commissioner going to Washington for a certain time. Do you know anything about why he went there?—A. Only from the comments in the public press that it was to urge upon Congress a retention of the land laws now in force as being superior under the "peculiar" conditions existing in Hawaii. That is all.

Q. Do you know that the government of the Territory paid him his salary and his expenses as well while there?—A. The government officials of this Territory are not in the habit of paying their own expenses on foreign missions. I can not answer this in any other way.

Q. Have you ever made an effort to make an entry of these lands yourself?—A. I have never, during all the time of my administration as government land surveyor, sought to obtain one acre of government land. I often question whether my course during that period was the proper course to pursue.

Mr. BOYD. One of your sons has applied for land under the present system, has he not?

A. Yes.

Q. He got fair treatment, did he?—A. I don't know anything about my son's transactions. I think he was a fool for taking it.

Senator MITCHELL. How long were you in Washington, Mr. Boyd?

Mr. BOYD. Very nearly three months, lacking five days; including traveling east and west, very nearly four months.

Q. Were you on official business?—A. I was sent by the government to give the Interior Department necessary information regarding the land status.

Q. You drew your salary while there?—A. Yes, sir.

Q. And your expenses were paid by the government?—A. Yes, sir.

Q. Did it take you three months to give your information to the land authorities there?—A. I do not like to pass any reflections on the Washington officials, but it takes a long time to transact such business there.

Q. Did you go there to work for or in behalf of the Hawaiian Ditch Company?—A. No, sir.

Senator MITCHELL. I understand you, as commissioner of the public lands, to be opposed to any repeal of the existing land laws. Is that true?

A. Yes. Those conditions existed when the laws were made, and they still exist to-day.

Q. Did not you oppose the Hawaiian ditch bill?—A. The only opposition I used was the vagueness of the description and the indefinite nature of the bill.

Q. Did you speak to members of the House or Senate in reference to opposing it?—A. Governor Powers is the only one.

Q. Did you not spend more time actively opposing that measure than you did enlightening with regard to the land measures?—A. No, sir.

Mr. LOEBENSTEIN. May I make a statement in regard to the ditch? I am not an interested party in that controversy between the respective applicants for the ditch franchise, but I noticed a statement in the Honolulu papers that they had cut 150 miles of trail. Last year I spent much time in this Kohala district, and as to 150 miles being cut there, it was clearly impossible. The longest line I came across in my surveys there, covering a very large area of country, was about 3 miles of trail cut. The dimensions of the trail still remaining were not more than a foot and a half. The vegetation here quickly hides the width of a trail. I remember going over this trail, and in surveying over the whole country I found no other trail whatever. If there were trails there they must have been covered up more rapidly than this particular trail, and even if there were they could not have been one-tenth of 150 miles.

Sheriff L. A. ANDREWS sworn.

By Senator MITCHELL:

Q. State your name, age, residence, and occupation.—A. My name is Lorin A. Andrews; age, 45; residence in Hilo. I am the sheriff of the island of Hawaii.

Q. Over what territory does your jurisdiction as sheriff extend?—A. Over the whole island of Hawaii.

Q. How long have you been sheriff?—A. Nearly six years.

Q. By whom were you appointed?—A. By the high sheriff.

Q. Where does he live?—A. In Honolulu.

Q. By whom was he appointed?—A. By the governor.

Q. What salary do you get?—A. Two thousand four hundred dollars a year.

Q. What are your duties?—A. The general charge of the police of the island and of the prison and chief officer of the court. There are two circuits in this island and I serve for both.

Q. What kind of a jail have you here?—A. Rather a poor one.

Q. It is a stockade, is it not?—A. There is a high board fence around it, about 12 feet high, and the jail is situated within this inclosure, entirely without any connection with the fence.

Q. How many inmates on an average do you have?—A. About 60 or 70, sometimes 100.

Q. Is there any difference in the pay you receive as to the number of prisoners you have?—A. Absolutely none. I have a salary in lieu of fees.

Q. Do you appoint a jailer?—A. I do.

Q. Do you fix his salary?—A. I do.

Q. What is the salary of the jailer?—A. Ninety dollars a month. He has no fees. The prisoners are supported through an appropriation made by the legislature.

Q. How much per capita?—A. Not per capita at all; \$65,000 for two years, and that for the whole Territory. I think it is \$65,000 for two years, but I am not positive; it may be more.

Q. Do you know Mr. Emil Ney?—A. I do.

Q. Was he ever jailer?—A. He was not. He was a guard in the jail.

Q. Upon your appointment?—A. He was.

Q. What salary did he get?—A. Thirty dollars a month and board.

Q. He was a guard, simply?—A. A guard.

Q. How many guards do you have?—A. Ordinarily three guards; and when there are more needed, we put on extra guards. We have, besides that, one prisoner who does guard duty as a trusty.

Q. Who is jailer now?—A. A man by the name of Mabie.

Q. How long has he been jailer?—A. Since July, 1900.

Q. Do you work the prisoners on the roads?—A. We do.

Q. What do you get for that?—A. We get nothing. They work for the government, and get no pay for it.

Q. Does anybody get any pay for their work?—A. No, sir; they are simply working out their sentence of hard labor.

Q. Is there any appropriation for this work that they do?—A. There is not. The prisoners until recently were kept at building new roads, and we had a portable jail which was kept on the Volcano road first and then on the road on the north coast.

Q. Any appropriation for those roads?—A. There is an appropriation and the prisoners are put on outside of that appropriation.

Q. There is an appropriation for building those roads, so much for the entire work?—A. So much for the entire work. When an appropriation is made it is spent during the following two years, and a further appropriation is made for carrying the work along further.

Q. That work is done under your direction?—A. No; under the direction of the road boards.

Q. They pay for it?—A. For all except prison labor. I simply turn over the prisoners to them; they furnish the guards for the prisoners working.

Q. Now, who checks them to know whether or not that work is done by free labor or by prison labor?—A. The free labor and prison labor are not worked together.

Q. But suppose so much work is done on the road, one-half by free labor and one-half by prison labor. What would hinder them from charging for both?—A. The road boards pay for this work either by contract or by day's work. The prisoners work in another part of the country and are not mixed up with free labor.

Q. Who determines that?—A. The public works department, in connection with the attorney-general's department. Suppose here are 30 miles of road be built; there is a moveable jail put up there and the prisoners are working in the vicinity of that jail; when the work is finished it is moved along.

Q. Then the whole thing, as a matter of fact, has no check on it excepting just yourself in charge of the prisoners and the road board—there is no official check anywhere?—A. I am not positively sure I understand your idea.

Q. I mean that if there were collusion between you and the road board there is nothing to prevent the work being done by prison labor and charged as paid labor?—A. No; there is nothing to prevent it.

Q. Do you keep horses down in that jail?—A. Yes.

Q. How many?—A. I think there are 9 or 11.

Q. Where are they kept—inside the inclosure where the men are kept?—A. No; in a separate inclosure.

Q. Why do you keep horses there?—A. The horses used in the garbage system of the town are kept there.

Q. Do you think that is proper sanitation—do you think horses and men should be kept together?—A. They are not kept in the jail, but in part of the inclosure—in a piece that was set apart by the board of health for lepers. For a great many years now we have not confined lepers as a rule. They simply come and deliver themselves up when ready for shipment and they are taken away. They used to conceal themselves, but now they seldom do.

Q. Are there any lepers there now?—A. No, not now. We had a leper there for about two months, six months or a year ago.

Q. Why did you keep it there two months?—A. Because we had no means of shipping it earlier. Our laws prohibit the shipping of lepers on vessels above a certain tonnage. When there are lepers to ship we have to wait sometimes many months before we can get a vessel to take them. Ordinarily we do not lock them up, but allow them to stay with their families until there is an opportunity to ship.

Q. Why do you work men with a ball and chain?—A. Only when they break jail, run away, and are captured. We have captured

every last one excepting a man sentenced to be hanged. When they are captured they have a chain attached to them and are required to carry that as a matter of safety against escaping again.

Q. Do they carry this at night?—A. Yes.

Q. Don't you think that the lesson to the young in seeing prisoners shackled on the streets is a very depraving one? Could you not afford to take a little extra precaution? Is it not a very brutal-appearing thing to you?—A. Not necessarily any more brutal than putting handcuffs on him.

Q. Don't you think it is more brutal to put a chain and ball on a man rather than to require him to wear handcuffs?—A. There is nothing more brutal about it. Great precaution is taken to see that no injury comes to the prisoner from it.

Q. But the children on the streets see the man carrying the ball and chain. Don't you think that is a bad lesson for them?—A. I do not think so. They know it is only there because the men would not submit to the authority that put them in jail.

Q. How long did you say you had been in the Territory?—A. About forty-four years. I was born on the island of Maui.

Q. Are you an American citizen?—A. I am.

By Senator BURTON:

Q. Are those chains riveted on or locked on?—A. Riveted.

Q. So as to be worn night and day?—A. Yes, sir.

Q. Do you think that is a humane way to treat prisoners?—A. It is as humane as it would be to turn them loose and necessitate the shooting of them if they undertook to run away.

Q. Your answer is hardly responsive to my question. Do you think it is humane or within the rules of proper treatment of prisoners to rivet an iron chain attached to a heavy ball on the prisoner, to be kept there night and day, and required to work with it on? Do you think that is within the pale of humane treatment?—A. I do not think it is any hardship to them.

Q. Where do you get the warrant for that under the law?—A. Under the law that requires me to keep my prisoners safely.

Q. Then there is nothing to prevent you from tying them to a tree and keeping them there, is there?—A. Nothing but conscience. We try to treat our prisoners humanely, and they are simply required to work as demanded by the law.

Q. What is the fare of the prisoners?—A. The Asiatics live mostly on rice, the Porto Ricans on bread, the Hawaiians on their favorite dish, poi; but some of the Porto Ricans, and more especially the Japanese, like the poi, and they eat that also.

Q. Are you allowed so much for their maintenance?—A. No; I am allowed no fees. There is an appropriation.

Q. You use whatever money is necessary for food for them?—A. We advertise each year for food for them.

Q. Furnished under contract? How much is it this year?—A. The price is so much per pound. Rice is furnished at so much per pound; beef, salmon, etc., furnished at so much per pound, and the prisoners have all they can eat; there is no restriction on the amount.

Q. How do you purchase poi?—A. In bundles.

Senator MITCHELL. That is all. The committee will stand adjourned until 8 o'clock this evening, in this place.

AFTERNOON SESSION.

Capt. JOHN FITZGERALD, being first duly sworn, in answer to questions put by the committee, testified as follows:

By Senator MITCHELL:

Q. State your name, age, residence, and occupation.—A. John Fitzgerald; 42 years old; residence, Waiakea; occupation, pilot, harbor master, wharfinger, keeper of the kerosene-oil warehouse.

Q. How long have you resided in the islands?—A. Eleven years.

Q. How long have you been harbor master—held the position of harbor master?—A. Four years.

Q. You were also pilot how long?—A. Five years.

Q. Are you thoroughly acquainted with the harbor?—A. Yes.

Q. Please state to the committee what you know in regard to the harbor and its wants, if any, and what legislation by Congress, if any, you have to recommend.—A. Well, our breakwater is a great necessity.

Q. State why, briefly.—A. In the north strong winds it gets very rough, so much so it is impossible to keep vessels from going ashore. We always give them two anchors and all the chain they can carry, and would give them three if they could carry them.

Q. Ample depth of water in the harbor?—A. Yes, sir; 7 fathoms inside and 15 fathoms of water right off of the reef.

Q. What character of breakwater is necessary to accomplish the desire?—A. I do not know about that.

Q. Where should it start?—A. The shortest distance would be from the northern end of Cocoanut Island direct toward the buoy, the present buoy, or perhaps make a little half circle, which the chart will show.

Q. What is the average depth of water?—A. Beginning straight from the island to the buoy it would average perhaps $4\frac{1}{2}$ fathoms, or 5. By going the other way, which would be over double the distance, $2\frac{1}{2}$ fathoms, possibly 3.

Q. Have you had any experience in the construction of breakwaters?—A. No, sir; none whatever.

Q. You could not give the committee any information as to the course that should be taken?—A. No, sir; I could not.

Q. What have you to say about lighting the harbor; any necessity for lighting the harbor?—A. I do not think so; no. At present we have two lights.

Q. You have two government lights?—A. Yes, sir.

Q. You think they meet the requirements, the two lights you have?—A. Yes, sir.

Q. Does the island coast need any lights?—A. Yes, sir; I think it does.

Q. Where?—A. Off the point here, to the north, it is very essential, as there is nothing to guide vessels.

Q. Describe where that is?—A. I do not know the native name for the point north of here, to the right.

Q. Is it the point of land to the left as we came in?—A. Yes.

Q. What is the necessity for a light there?—A. All the vessels that come to this port from the coast, as we call it, come in from that direction—make port in that direction—and there is no light there.

Q. What character of light should be there?—A. One twenty-light second-class light would be sufficient.

Q. What other lights does the coast need?—A. I do not know, really.

Q. Any needed on this side—south side?—A. I do not think so. We have a couple or three there now.

Q. Any other suggestions that you have to make?—A. No, sir. The method we have of handling vessels here is, we moor the vessel with a heavy hawser at the stern, after dropping two and sometimes three anchors, and when the wind blows hard the only salvation is to let go their stern line and let the vessels swing around. If we attempted to hold her that way she would part her chains and go ashore.

Senator MITCHELL. That is all.

Judge GILBERT F. LITTLE, being first duly sworn, testified as follows:

By Senator MITCHELL:

Q. State your name, age, residence, and occupation.—A. Gilbert F. Little; age, 56; residence, Hilo; occupation, judge of the circuit court of the fourth circuit.

Q. How long have you held the position of circuit judge?—A. Since my appointment, June 5, 1900.

Q. Judge, are you acquainted with the system in vogue in this Territory of filling the vacancies on the supreme bench of the Territory?—A. Yes, sir.

Q. What is it?—A. Our statutes provide that in the event of a vacancy on the supreme bench, through sickness, absence, interest, or other disqualification, the attorneys in the cause may agree upon a member of the bar to fill the vacancy, or in the event of the attorneys not being able to agree, the remaining justices may select a member of the bar or a circuit judge to fill the place thus made vacant, and the person so invited proceeds to take his place and hear and assist in passing upon the questions involved without being sworn as a judge or justice of the supreme court.

Q. Does he come on for any specific time?—A. For that case only.

Q. When that case is finished he is again recalled for the next case?—A. He or some one else, and the same operation gone through with.

Q. Suppose two vacancies on the supreme bench were to occur, would they call two lawyers?—A. Yes, sir; our books are full of such instances, one of which I call to mind (*Brown v. Brown*, in 11th Hawaiian, p. 47).

Q. With those three gentlemen sitting on the bench they would pass upon questions?—A. Yes, sir.

Q. Supposing to-morrow before the case is finished the chief justice is stricken ill, could the remaining two members of the bar continue with the case?—A. They could and I think there is a case in record in our books, which I can not now call to mind, where one justice of the supreme bench was alone qualified to sit in a case. He called two members of the bar to sit with him. These two gentlemen filed the opinion of the court and the one justice upon the bench filed a dissenting opinion. I am not so sure of this case, but I have it in mind that it is a fact.

Q. How long have you practiced law before you went into the judgeship?—A. From twenty-five to thirty years.

Q. Where?—A. In Indiana, Washington, Kansas, and Hawaii.

Q. In your judgment, how do you regard from your standpoint as judge this matter?—A. If I were not a witness I should say that it is

infamous, but as a witness I would say that it is very deleterious to the best interests of the people generally.

Q. A very unwise system?—A. Yes, sir; and calculated to create dissatisfaction and distrust and cause very little weight or respect for the decisions of the supreme court in many instances.

Senator BURTON. I presume it is the practice with the justices to pass this privilege around to those of their choice?

A. I do not know about that, but if I were a lawyer in a case and there was a vacancy on the bench I should try to get my friend appointed. Of course he would not do anything wrong—but I would try to get him in.

Q. Is it true under the existing laws as propounded in this Territory that there is no appeal to the Supreme Court of the United States except in constitutional questions?—A. Yes, sir. It was a mistake, more than anything else, on our part, at the time the act was under consideration in Washington, and it was the design on the part of those who were acquainted with that court, but that is the fact. Under the old régime they did things here just as they pleased. You will find that justices of the supreme court would make suggestions to the legislature, and did it very decidedly, and in our circuit courts you will find from the old statutes, which are still in force, that we have greater power than have courts of like jurisdiction in the United States.

Senator BURTON. It is the same way as to other officers of the government?

A. Yes, sir. For instance, the attorney-general's office is very extensive in its jurisdiction and power. Under the form of government during the Dole oligarchy—it was an oligarchy and nothing else—there was practically a one-man power. The attorney-general was a member of the cabinet, who substantially directed the appointment of the circuit judges, marshal, deputy marshal, and sheriffs.

Q. Why do you call it an oligarchy?—A. Because Dole and two or three others ran the government. If you gentlemen could have lived here at the time I came you would have been horrified at the conditions that existed and many of which are still in existence. If the same conditions had been forced upon the people of the United States and the same treasonable conduct made manifest any man connected with such transactions would have been hanged. Under the provisions of the organic act the circuit judges do the best they can to follow the law; but Perry and Frear of the supreme bench are not Americans in sentiment or sympathy. Frear was born in the United States, but came here when quite young, and, except when at school, has resided here during his entire life. Perry is a native to the manor born. They have the power under the law, without the right of review in the United States Supreme Court, to modify, review, affirm, or reverse all appeals from the subordinate courts. If you will take the dissenting opinions filed by Justice Galbraith and examine the law upon which some of their decisions were predicated you will probably get more information in less time than from anything I could say.

I am somewhat loath to say anything to this committee on this occasion, because Dole and his followers will say it is politics or prejudice.

Senator MITCHELL. Is it true, under the existing Territorial laws, that a man convicted of burglary can be sentenced to the penitentiary for life?

A. I do not at this moment recall it.

Q. The question has not come to your attention?—A. No, sir. If I had the penal laws here I could tell you in a moment. Now, Mr. Chairman, I shall read from the penal laws of Hawaii regarding embezzlement, section 158, chapter 15, page 93:

Whoever, being a minister, clerk, cashier, collector, or other person employed in the government or any other branch of the department of finance or any other department of the government, is guilty of embezzlement in money, note, or other effect or property belonging to the government, shall be punished by imprisonment at hard labor for life, or any number of years, or by fine not exceeding five times the property embezzled.

Senator BURTON. If you embezzled \$5 you would either be fined five times that amount, or \$25, or sent to the penitentiary for life?

A. Yes, sir; that is the law.

Q. You must have great confidence in the judges down here?—A. Not so much as they used to have. With further reference to the penal laws, in answer to a question propounded a little while ago, I shall read section 106, referring to burglary (chap. 14, p. 81), as follows: "Whoever is convicted of burglary in the first degree shall be punished by imprisonment at hard labor for life or any number of years;" and further, "whoever is convicted of burglary in the second degree shall be punished by imprisonment at hard labor not more than twenty years."

Senator MITCHELL. Is that in the discretion of the court?

A. Yes, sir.

Q. Any more crimes except rape and murder that are capital?—A. No, sir; I think not.

Q. Rape is a capital offense?—A. It may be, within the discretion of the court.

Q. Are there no crimes except burglary in which the life penalty is enforced?—A. None, excepting embezzlement and murder.

Q. Is there any degree of embezzlement, according to the amount embezzled?—A. The degree is intensified or modified by the evidence, and the penalty is within the discretion of the court.

Q. Is there any necessity for two judges on this island?—A. Yes, sir.

Q. Why?—A. For the purpose of the actual amount of work to be done I should say no, but under the present conditions of transportation, etc., it is a physical impossibility for one man to so locate himself on the island as to be within reasonable distance of the places where the legal business is principally transacted. Injunctions, interlocutory proceedings, requiring immediate attention, could not be looked after by one man at this time. For instance, it is 70 or 80 miles from here to Kailua, which is located in the third circuit. The law requires that the judge shall reside within the circuit for which he shall have been appointed, and as a man he can not very well reside in the two circuits at the same time. If, however, you were to make this one circuit, and raise the salary to about \$5,000, and provide the judge with traveling expenses necessary because of the imperfect transportation, for all ordinary business one man could do the work all right.

Q. As far as the amount of business is concerned, one judge could do it?—A. Yes, sir; and still have time to himself. This is the largest circuit outside of Honolulu, and since coming to the bench I have tried about 500 cases; on an average each case is handled about four times until finally disposed of, which would be practically 2,000 cases during my incumbency. I don't know exactly the extent or volume of business transacted by Judge Eddings, of the third circuit, but

under proper conditions, so far as the physical condition and work is concerned, it might easily be transacted by one judge.

Q. Judge, is there anything that occurs to you as a citizen of this Territory that you would like to mention or call the attention of the committee to here in addition to what you have said?—A. I think we should have an express recommendation from the committee, in the proper manner and at the proper time, in the interest of proper government. When I had the honor of representing the Americans, during the first session of the Fifty-sixth Congress, in Washington, when our act to provide for a government for the Territory of Hawaii was under consideration, I made a strenuous effort to have section 56 of the act amended to read as follows:

That the legislature shall, at its first session, create counties, town, and city municipalities within the Territory of Hawaii and provide for the government thereof.

The Senate passed the section as above, but the House amended the Senate bill by striking out all after the enacting clause and substituting the House bill, and section 56 was finally passed as it now reads. We have no county government under the organic act, and we are therefore suffering from some of the most incongruous conditions. For instance, we have a high sheriff, which acts like the fifth wheel in a wagon. He resides in Honolulu and assumes to have charge of the other sheriffs. We have a sheriff here, subject to the order of the court. Not very long ago the court here made and entered an order and directed the sheriff to execute the same. The attorney-general's department issued an order to prevent him from obeying the court, thus creating a direct conflict between a subordinate department of the judiciary and the court, through the high sheriff. Our sheriff was not to blame particularly, since his appointment comes from the attorney-general or high sheriff and the order he was to obey issued from the court here. This state of things grew out of the fact that under the oligarchy if a man should be fined \$5 or \$50 and he did not pay the fine at once he was placed in the hands of the sheriff by virtue of a mittimus, and by and by, if he should pay the fine, the sheriff, instead of paying the money over to the clerk of this court and having the judgment against the man satisfied and closed, would send it to the high sheriff or to the treasurer of the Territory, and by that means the man was liberated from the custody of the sheriff and the judgment against him was left to stand open. If the court should see the defendant on the street, and knowing the judgment was still open, he would naturally enough not understand, nor could anyone explain the situation in the absence of the high sheriff. So you can see there is no occasion for a high sheriff. All process should run to the sheriff of the county or of the judicial district within which the court issuing the same is located. If counties were created, none of this would take place, of course.

Q. When an appeal is taken from your court to the supreme court of this Territory, by what process does the record get into the supreme court?—A. All equity cases which are tried before a circuit judge at chambers subject to appeal are tried without the intervention of a jury. No exceptions lie in any case and no appeal lies as a matter of right except from a final decree (*Kahai v. Kuhia*, 11th Hawaiian, p. 3). Appeals from interlocutory decrees may, however, be allowed by the circuit judge in his discretion if he thinks it advisable for the more speedy termination of the litigation (Session Laws, 1898, act 40), and the form of appeal should read: "The party gives notice of his inten-

tion to appeal and hereby does appeal to the supreme court from the decree," etc., describing it. The appeal must be in writing, and takes the entire record of the case to the supreme court. In law cases it is by bill of exceptions and writs of error.

Q. What I want more particularly, who takes that record from one court to the other court?—A. It is transmitted by the clerk of our court to the clerk of supreme court. The appellant, of course, takes the appeal, pays all costs, and gives bond for further costs, etc.

Q. I heard some complaint from a lawyer to the effect that you could never tell when a case was filed in the supreme court—some trouble about that.—A. I don't think there is any serious trouble in that respect. The appeals go up all right.

Q. Would you recommend, Judge, an amendment in the organic act so that the right of appeal should be extended to the Supreme Court of the United States?—A. Most certainly.

Q. How far would you extend it?—A. I would extend it through the court of appeals, the same as is the case in other Federal Territories, especially down here. We ought to have the decisions of the supreme court under present conditions reviewable by the Supreme Court of the United States.

Senator BURTON. Is there any reason why the same rule should not be applied here as in other Territories of the United States?

A. None at all.

Q. And there is every reason why it should?—A. Yes, sir. We all believe, down here, in one country and one flag. We believe in one Constitution, and our supreme court has rendered decisions practically stating that the Constitution only came here in sections—that it did not "come in all its fullness." The Americans here have little respect for such decisions or for the men who make them, and we ought to be allowed to have all our important questions subject to review by the United States Supreme Court, the same as in other Territories.

There is another question, not connected with courts, however, to which I think the attention of the committee should be called. That is the necessity for a breakwater. A visual inspection on your part of our harbor front will develop the palpable necessity for the erection of a breakwater, and it seems to me that it would be well for the committee to give it more than passing consideration. Our town is growing, our commerce and shipping are increasing, and we have, as you see, no good or convenient way of handling our freight. The gentleman who presented this question to you this afternoon has given it considerable serious attention and his conclusions were reached only after mature deliberation. A survey of our harbor shows that we have $1\frac{1}{2}$ square miles of good anchorage, and if we could be in a measure protected from the storms and consequent perils of the sea, so that ships could lie in safety, it would be infinitely beneficial, both commercially and financially, not only to this locality but to the entire Territory. On this island railroads are rapidly being built to the northward, and prospectively others to encircle the entire island. We have a line of steamers direct to San Francisco, and, with proper harbor protection, that our private citizens might have some assurance of a return for their money, we would soon have all the wharfage and docks necessary to transact our business properly, and it seems to me that the United States Government ought to erect this breakwater, for several reasons. The most important one is that

with the transfer of the sovereignty the government custom-house receipts now go to the United States instead of into the treasury of the Territory, as heretofore.

Q. Do they not go into the public Treasury all over the United States?—A. Yes; they do; and it is true that the United States paid the debt and gave us our Territory free from incumbrance at the time we came in, but at the same time I think the Federal Government could help us in this way very nicely, and the people here need it. There are some rich men here, but a great many of our business men are comparatively poor.

Senator MITCHELL. There is no reason why the General Government should not do it—should not improve this harbor. I do not like to commit myself, but on this I will state that I think something should be done to give you a breakwater. Judge, in your official capacity, traveling around from place to place, do you consider yourself pretty well acquainted with the sentiment on public matters that have been discussed from time to time?

A. Well, I am a Republican and an American by birth, and I have very decided views on what we ought to have and the rules of government that should obtain. All the Americans resident in this Territory are alike in that respect—the sentiment that we should have an American form of government, run by Americans and American laws. With us the Constitution and the flag mean something. I mean the sentiment of the best people generally on these islands is that way. The old régime is loth to let go. They are like the little boy holding on behind a carriage. He will not let go unless you whip him off.

Q. Do you know anything of the sentiment of the people in regard to the question of the Queen?

Senator BURTON. The late Queen—what is the feeling?

A. Why, there is a very decided feeling among the Americans that she should be indemnified for the loss of the Crown lands.

Q. Why?—A. That grows out of the overthrow of the monarchy, which, it must be admitted, was without right and without any pretense of justice, and without motive or warning. She was the innocent victim of a condition of things which she was not able to overbalance. The government was at peace with all the world at the time. The Queen desired that her citizens should have one vote, without any financial qualification, and should have that vote counted—the same condition that existed in the South at the time of reconstruction. Those opposed to her objected to that, and when she attempted to promulgate a constitution they overthrew her, and it seems that the American minister at the time allowed the marines from the ship of war of the American Navy, anchored in the harbor at the time, to land, and placed them in the vicinity of the palace, where, in a measure, she was intimidated by them. She had 200 or 300 soldiers of her own, which were entirely sufficient to have quelled any internal disturbance. It is alleged by those who were present that she was intimidated by the presence of the American marines, and yielded to the request of the committee to surrender her throne and trust her fortunes to the justice of the United States.

Q. It is generally understood everywhere in these islands that she could not have been overthrown except for the American Government?—A. Yes, sir; that is the sentiment. This thing could not have occurred in the United States at all; but the marines were there, and she was requested to yield peaceably and trust her for-

tunes to the sense of justice and right of the United States, which she did. This is hearsay on my part. That is the sentiment of the people; I have heard them time and again during my residence here. There are several reasons why the sentiment seems to be in favor of indemnifying her. Under the act of legislature of June 7, 1844, the legislature gave the sovereign the fee simple title to certain lands—crown lands they called them—and after dethroning her of course the oligarchy cut off her income and made the crown lands public lands, and the result is that the natives all over this country feel hurt at the persistence of the United States Government in keeping these people in power and not giving her any money or indemnifying her for the loss of her lands. They have no faith in the present executive; and judging all haoles (whites) by him, they have very little faith in the honesty or justice of the white man, or haole, as they call him. They recognize the fact that they have sustained not only the loss of their country by the action of those in power over them, but their flag has also been taken away from them, and their queen was imprisoned after her dethronement because she objected and refused to meet their demands, and her subjects were imprisoned because they were loyal to their sovereign whom they loved. And now that these people have taken away from the Hawaiians their queen, their country, their flag, and everything that they held near and dear to them, the last remaining, lingering sentiment in favor of their sovereign is that she be indemnified for the loss of the lands which belonged to her under the constitution of the country now merged in our own.

Q. What effect, in your judgment, would it have in allaying this sentiment among the Hawaiians if some compensation were allowed her?—A. The sense of justice in Hawaii is the same as elsewhere, and without discussing the right or wrong of any phase of the case, I am sure if you would indemnify her in such way as might be deemed right and proper by those who have the matter in charge, it would restore the confidence of the Hawaiians in the Americans.

Q. Do you know what the standing of Liliouakalani is in this Territory as a reputable, well-behaved, American citizen?—A. She is a first-class woman, quiet, dignified, and unobtrusive. She ought to be good, since the missionaries educated her, as I am informed.

Q. As a woman, is she regarded as reputable?—A. Yes, sir; she is, and she is loved by her own people. For instance, on her birthday she always holds a reception, and people of every description call upon her and pay their respects, and she is held in great esteem by everyone among the people who know her best. Her present position is somewhat circumscribed by the existing conditions, but so far as I know she stands well.

Q. Do you know, or have you heard from any source, of any act or expression on her part inconsistent with that of a good, loyal American citizen? I mean since annexation.—A. Well, I don't know that I have heard her express herself on the subject. I am a good friend of the queen and I know her pretty well, and she has always expressed herself to me as thoroughly imbued with a sense of the honesty and fairness of the American Congress. She usually visits Washington during the sessions of Congress and listens to the proceedings with great interest, and is impressed with the dignity and decorum of the American Legislature, and is hopeful that something will happen whereby she will be ultimately benefited.

Q. Does she have anything to do with politics in this Territory?—
A. I do not know. Some of the papers which do not like her say she influences things politically. I should not be surprised if she did. She is a quiet, unobtrusive woman, her people love her, and I have no doubt she influences the Hawaiians' vote largely.

Q. What party does she sympathize with? You have Home Rulers and Republicans.—A. The Hawaiians did not understand when annexation took effect just what to call themselves politically, and it is my honest opinion, from what they have told me personally since then, that if they had known what they have since learned they would have called their party anti-Dole Republicans, the same as Gold and Silver Republicans or Democrats in the States, but not knowing how they stood among themselves they called their party Home Rulers. The queen is for her people. We had a political contest our first election for Delegate and there was a Hawaiian nominated for Delegate by the Home Rulers, a Hawaiian ran as a Democrat, and the Republican nominee was a Hawaiian.

Senator BURTON. She was evidently with the Hawaiians in that case?

A. Yes, sir; I think she was.

Senator FOSTER. You say you have no faith in the Dole dynasty or oligarchy; do you regard that as an honest administration?

A. Well, Dole and his followers may be great, good, and honest men according to their own estimate; but the qualities which they possess and the methods which they adopt do not fill the American definitions of honesty, fairness, and greatness. Of course, you will understand, I would rather abstain from making any political comment; but I am opposed, as are all Americans, to Dole's whole outfit. They are not Americans; they do not represent Americans or American institutions, nor American sentiments. But I would prefer, as a witness, to abstain as far as possible from anything that looked like politics; otherwise it might be considered that I was prejudiced or biased, which is certainly not the case.

Cross-examination by Mr. COOPER:

Q. Do I understand you to say that the overthrow of 1893 was an injustice?—A. Yes, sir.

Q. And you base your reason on the fact that the constitution which the Queen was to promulgate had in it a free franchise to the Hawaiians?—A. Yes, sir.

Q. Have you ever seen a copy of the constitution?—A. No, sir.

Q. Do you understand that is the only change she intended to make?—A. I understand that she intended to curtail the franchise of the white man somewhat.

Q. Also intended to appoint the high branch of the legislature?—A. I do not personally know what it contained.

Q. Also remove judges at her pleasure?—A. Well, they should have been removed.

Q. If such was the case, was that injustice?—A. I do not think her dethronement was justified under any circumstances.

Q. As to the intimidation by American troops, do you know how much force the revolution had at that time?—A. No.

Q. Why did you say that the Queen was intimidated by the American troops?—A. As I have already said, that it was hearsay. It is the sentiment of the best people with whom I have discussed the ques-

tion who were here at the time. It is in Blount's report and in Cleveland's message.

Sheriff L. A. ANDREWS, recalled to the stand, testified as follows:

By Mr. BURTON:

Q. Are you a member of the road board, also, as well as sheriff?—A. Road board of this district, South Hilo.

Q. What territory does that embrace?—A. District of South Hilo.

Q. What is the district of South Hilo?—A. The island is divided into nine districts. They are uniform so far as area goes. South Hilo district is the most populous, and extended to the north 15 miles and to the southward 6 miles and from the sea to the summit of the mountain. It is the principal portion having any population.

Q. You have charge, of course, of all the prisoners in this jail and others?—A. On the island of Hawaii; most of them are kept here. When we have a large number of them they are kept in the district of North Hilo.

Q. You have charge of the police of the island, have you?—A. Yes, sir.

Q. They are all under you?—A. Yes, sir.

Q. How long have you been in the islands?—A. About—since 1863.

Q. The regular police are paid by you?—A. Yes, sir.

Q. Do you make requisitions, or is it placed at your disposal?—A. There is a certain proportion of the money appropriated for the attorney-general's department, and a certain sum is set aside for this island, appropriated, which is paid out on a pay roll; each man signs the pay roll and that is sent by me to the high sheriff, who sends it to the attorney-general for approval, and then they are passed over to the auditor, who issues warrants for each man's salary, which is transmitted.

Q. It is transmitted to the man who signs the pay roll?—A. It is transmitted to me, and by me it is sent to the various deputies, and by them handed to the men.

Q. Do you employ all the police?—A. Yes, sir; I have practically absolute control of all the police.

Q. So if a man keeps on the right of you there is no chance of his getting into jail?—A. He would be perfectly safe, unless the grand jury got after him.

Mr. MITCHELL. Did you hold any position under the monarchy?—A. Yes, I did.

Q. What was it?—A. First as deputy sheriff in one of the districts on the island of Maui; captain of police in Honolulu.

Q. What is the difference, if any, between the system as operated in the monarchy and the system as operated now?—A. There is very little difference.

Q. Substantially the same?—A. Yes, sir; it seems as if those who prepared the Territorial act had endeavored to make as little change in the system of government as possible in the running affairs of the government.

Q. How about the system of the board of health? What is the difference between the system now operated and that operated under the monarchy?—A. There is very little difference as far as I know. The board of health is a body located in Honolulu, and they have agents, and all sheriffs and deputy sheriffs of the government and government physicians hold commissions as agents of the board of health.

Q. In addition to their other duties?—A. Yes, sir. The board of health has power to make certain regulations which have the force of law, and all agents have well-defined powers which are somewhat arbitrary in certain ways.

Q. What is the difference, if any, between the system?—A. It is practically the same.

Q. How about the public lands—the disposition of public lands under the monarchy and at the present time?—A. As far as I know, they are exactly the same—not under the monarchy, but under the republic of Hawaii.

Q. What is the difference from the system under the monarchy?—A. Under the monarchy we had a homestead law, which was comparatively new and untried, practically until the time the overthrow took place, and before that the lands were leased or sold at public auction by advertisement—that is, government lands; crown lands were handled by a crown commission.

Q. That is, the private lands or property of the Queen?—A. Not as I understand it; they were public lands, but the revenues were devoted to the members of royalty.

Q. It was the private property belonging to the Queen?—A. They received the moneys, which was appropriated by the legislature.

Q. What is the difference of the system of levying and collecting moneys under the monarchy and under the present system?—A. It was changed just before the overthrow of the monarchy.

Q. Changed by the monarchy?—A. Yes, sir; under the monarchy the system was changed, and that system is still in vogue.

Q. The system of levying and collecting taxes, as defined by the monarchy before the overthrow, is exactly the same as it is now?—A. Practically.

Q. Is there any department of the government in this Territory to-day which is substantially different from the operations of that department under the monarchy?—A. There is a part of the judicial system which is different, in regard to the bankruptcy laws; they were taken away from our Territorial courts and put into the Federal courts. The grand jury system is another change, which is very satisfactory.

Q. You say the crown rents received from the crown lands went to the crown?—A. All the moneys received went to the crown.

Q. Did they make any accounting of it?—A. No; I do not know. I would not be positive without being questioned. For instance, about that land which was spoken of to-day, a very large tract was leased to John T. Baker at a very nominal rental for a long number of years as his payment for assistance which he gave the monarchy, and that was his pay.

Q. Do you know what the annual revenue of the crown lands was before the dethronement of the late Queen?—A. I can not speak authoritatively.

Q. Do you know of any records kept by anyone in authority by which they could be reached?—A. I think there was some record kept by the crown commissioners.

Q. Who were the crown commissioners at that date—at the date of the overthrow?—A. I think Curtis Iokea. It would not be hard to find out in Honolulu, as I do not remember. There were others. The officials would know.

Mr. W. S. WISE. May I be permitted to ask the sheriff a few questions?

Mr. MITCHELL. Certainly; we would like to have everyone who wishes to question the witness do so.

By Mr. WISE:

Q. Sheriff, will you explain why it is that warrants of arrest can not be obtained from the district magistrate without having first been O. K.'d by the sheriff or his deputy?—**A.** There is no such rule.

Q. Do you know, as a matter of fact, that without your deputy or your O. K. an attorney or anyone else here can not obtain a warrant of arrest from the district magistrate?—**A.** I know nothing of the kind. It is not correct. Judge Hapai can not refuse to issue a warrant.

Q. Do you know that he does refuse to issue warrants without being first O. K.'d by you or from your office?—**A.** No; I do not know. I will explain first. There is a police regulation which forbids the police from executing warrants without first having had the approval of the prosecuting officer, sheriff, or his deputy, and for that reason when a person makes a complaint the warrant is taken to the prosecuting officer and the complaint written out in legal form and is O. K.'d by me and then goes to the district magistrate, who then issues a warrant without any further consideration of the matter, it having been approved by a responsible prosecuting officer. Sometimes complainants go to attorneys and they make out these warrants and bring them to us to get our approval.

Q. Who is the prosecuting officer in this island?—**A.** The prosecuting officers are members of the police force, the sheriff, and deputy sheriff, and we commonly appoint for this district—of Hilo—a captain of police.

Q. Is there no attorney?—**A.** No attorney.

Q. No prosecuting attorney?—**A.** No, sir.

Q. The sheriff is practically the prosecuting attorney for the island, and his deputies?—**A.** Yes, sir.

Q. Then, as a matter of fact, the sheriff can determine whether a criminal case can be tried or not?—**A.** No; if you will allow me to complete my explanation. If the prosecuting officer does not approve or O. K. the warrants—if he is not certain of the status of the complaint—it is then up to the judge to examine into the case and see what the law is.

Q. You are occupying the position as an attorney for this island, and it is here, as everywhere else, that criminal cases can not be put on without the prosecuting attorney first passing on it. The statute provides [reading]:

Chapter 49. Penal Laws of Hawaii, section 543: No arrests of any persons shall be made without first obtaining a warrant or other process therefor from some magistrate, except in the cases in the chapter hereinafter provided.

SEC. 544. Where a breach of the peace or other offense has been committed and the offender shall endeavor to escape, he may be arrested by virtue of a verbal order of any magistrate, or without any such order if no magistrate be present.

Mr. BURTON. Is that mandatory?

Mr. WISE. Yes, sir.

Mr. BURTON. Why should the sheriff or deputy sheriff have anything to do with O. K.'ing warrants if what he has read is correct? Why has there grown up the practice of you or your deputy O. K.'ing warrants before they are issued? If he has stated the law correctly, it might be that your administration would be a certain species of legislature, which I know that you would not want to undertake. In other words, you would be the maker of laws instead of an administrator of them.

A. It really makes very little difference whether a statute is mandatory, so far as the working of it goes. I do not think it is mandatory, but, admitting that it is mandatory, it would then be up to the prosecuting attorney to go on with the case or to drop it.

Q. Do you appear as counsel?—A. I appear for the government.

Q. Are you a lawyer?—A. I am not.

Q. Do you examine the witnesses?—A. I make the examinations.

Q. And not a lawyer?—A. Not a lawyer.

Q. Do you have an assistant?—A. No, sir.

Q. No lawyer on the government's side?—A. No, sir.

Q. It seems to me that the lawyers would have a picnic. Is it true, gentlemen, that you do not have any lawyer down here in the prosecution of witnesses?

Judge GEAR. My sheriff in Honolulu is an attorney, but he is there only a part of the time.

Q. In case of an indictment, wouldn't the attorney-general appear?—

A. His deputy, or one appointed by him, would appear if there was an indictment. I might state that in one or two cases of habeas corpus we had to wait until word could be sent to Honolulu—until the attorney-general could come up here.

Q. In a proceeding of habeas corpus here could the matter be delayed until you sent to Honolulu?—A. Not under our present judge, you can not.

Q. Could you under any judge who wanted to do it?—A. That seems to be the impression.

Sheriff ANDREWS. The statute reads that when a matter is one of a criminal nature the attorney-general or his deputy must be notified before the hearing of the case; the sheriff of the island, therefore, is a deputy of the attorney-general and can appear.

Q. Are you a lawyer?—A. I am not.

Q. Is the high sheriff?—A. Yes; he is a lawyer, but he never comes to this island on official business; at least, not since I have been here.

Sheriff ANDREWS. You asked me some questions to-day regarding a man by the name of Ney—that he had made certain complaints against me.

Mr. BURTON. He said you threatened him if he made any complaint against you.

Sheriff ANDREWS. I made nothing of the kind.

Mr. BURTON. I do not know whether it was you or one of your deputies.

Sheriff ANDREWS. I did not know of the case at the time you questioned me, but since then I have learned from one of my deputies, who arrested him. He was out of work and I employed him; I said I would give him \$30 and board in the jail so as to keep him within the jail grounds, as he has an unquenchable thirst for liquor; after his first month's work he would smuggle liquor into the jail and was very abusive, and I let him out, and he swore all sorts of vengeance.

Q. Did you say you discharged him?—A. He said he resigned; I may have requested him to resign.

Senator MITCHELL. Is there anyone else who wishes to go on the stand?

Col. SAM PARKER. There is a gentleman here who is a prominent coffee planter, Mr. Horner. He is one of the most prosperous ones.

Mr. ALBERT HORNER, being first duly sworn, in answer to questions put by the subcommittee testified as follows:

By Senator MITCHELL:

Q. State your name, age, residence, and occupation.—A. Albert Horner; 39 years old; residence, Hamakua district; occupation, farmer.

Q. How long have you lived in this island?—A. About twenty years.

Q. What is your business?—A. Farmer.

Q. What do you farm?—A. sugar cane.

Q. Anything else?—A. Well, we tried diversified farming, but have given it up.

Q. Have you engaged in the coffee business?—A. Yes, sir.

Q. When? Where?—A. We began in 1889, in the Hamakua district.

Q. This island?—A. Yes, sir.

Q. State to the committee, in your own way, what you did, and all about it.—A. I have prepared a memorial, which I would like to read.
[Reads:]

To the honorable Subcommittee on Pacific Islands and Porto Rico, selected by Congress to investigate conditions and government of the Territory of Hawaii.

GENTLEMAN: Having been practical and actual farmers in the State of California from 1846 to 1879, at which time we came to the Hawaiian Islands (where we have continued farming to the present time), we feel that our experience in this line in this Territory during the past twenty years qualifies us to speak intelligently upon the subject of diversified agriculture of Hawaii.

We first located on the island of Maui, where we entered into an agreement with the Hawaiian Commercial and Sugar Company to plant cane, with the further agreement to sow grains of all kinds and plant vegetables on the lands of the company.

Upon our arrival we were told that diversified farming could not be made profitable in Hawaii, but after looking over the island and investigating the soil we concluded, like many who preceded and succeeded us, that those who had tried farming previous to us did not understand their business. Like all newcomers, we based our opinions upon conditions existing on the mainland. To us the most favorable conditions of climate and soil were presented, and against the advice of those who had tried general farming in former years, we plowed and sowed to barley and oats several hundred acres. It came up and looked well until it was about 1 foot high, when it was attacked by worms, and the entire crop was destroyed. We were not discouraged, however, and the following year we sowed all the land we had cultivated the first year and added quite a lot more. The result was the same as in the first—no crop. About this time the idea occurred to us that those who tried farming previous to our arrival had arrived at about the right conclusion, viz. that general farming was not a profitable investment, and we did not try it again on Maui.

In the fall of 1882 we came to the Hamakua district in the island of Hawaii, and took up cane planting, general farming, and stock raising. The land under our control extended from an elevation of 200 feet at the seashore up to 10,000 feet, which is the limit of the vegetation.

On this tract of land we have tried all kinds of grains during the twenty years it has been in our control, and at all elevations from 1,250 feet up. No results were obtained from wheat, barley, or oats. They all came up well and did well until they were about a foot high, when they were always attacked by worms, as they had been on Maui. We never had even pasture from the above grains. We have planted corn and potatoes more or less every year, and we have been able to get a paying crop from these two last for about one year out of three, but the losses have always exceeded the receipts to such an extent that we have practically given up this kind of farming, and are perfectly willing that some one else shall reap the fortune and glory that is to be obtained from general farming in the Territory of Hawaii. That general farming will never pay until science comes to the relief or aid of farmers and finds an enemy for the pests that infest our soils.

We will add that in the forests, using virgin soil, the chances are even that there will be a paying crop the first year, but in the second year all the insect pests that inhabit our soils, with their relations and friends, will be there waiting for the innocent and unsuspecting farmer's crop to get well started, when they will attack it, and in spite of all his efforts his crop is doomed. The result is that farms, as far as general farming is concerned, are practically abandoned. As in everything else, there are exceptions to the rule, but cases where success has been obtained are so few, and the small tract favorably located, and the return so small in comparison to the time and labor that one hears but little about them.

In 1889 we began the growing of coffee, which was selling at that time in the market at from 18 to 22 cents per pound. As coffee does well in this district and in many other parts of this group, we thought we had at last found something outside of the sugar industry that would pay. We continued to extend the cultivation of coffee up to a few years ago and now have about 400 acres; but after we had increased our area the price went down, our last account sales showing but \$95.10 net for 1,000 pounds of cleaned coffee, while the cost of production and marketing was \$105.25 for 1,000 pounds, which was a loss of 1 cent per pound for every pound produced. The cost of cultivation is made up as per memorandum herewith attached. Living expenses of owner or manager and family are not included in this estimate, only the actual labor, etc. The coffee being under the same management as the sugar plantation we do not have this extra expense. A great many homesteaders on this district, having lost money on the coffee they picked last year, did not harvest their crop this year, realizing the fact that they would save money by not harvesting it. In many cases they have left their homesteads and have sought and found employment on the adjoining sugar plantations.

In our own case we have decided not to cultivate coffee any more, and what was once the most promising and best cared for coffee plantation in the Territory of Hawaii is now nearing the stage of a wilderness, and this will be the end of most of the coffee plantations in this Territory unless there is something done by the United States to encourage its cultivation.

High cost of labor is much against it; again, the trees need to be picked over at least three times to get the entire crop, whereas in the South American countries one picking suffices.

Again, in most cases it is costly to transport it to the landings; freights are very high to Honolulu, as you will notice by glancing at the memorandum attached. We are, perhaps, as favorably located to grow coffee successfully as any other planters in this Territory, for we can generally send men up to assist in picking. Again, when there is not work in the coffee the men are given work on the sugar plantation. Thus one works as an assistant to the other, whereas independent planters, or those who have coffee only, can not afford to keep the men between the time of the pickings and are obliged to depend on getting extra men when they are required. In many cases the men are not to be had and the coffee is not gathered, owing to this shortage.

We therefore say that without assistance to this industry there will be left only sugar, rice, and stock raising, but with proper encouragement it can no doubt be made an industry ranking next to sugar. There are approximately 200,000 acres in the Territory suitable for the cultivation of coffee and they would soon be occupied.

There has been an agitation for many years both by the press and individuals to encourage small farmers to settle here. That it may be accomplished is the hope of every Anglo-Saxon in Hawaii, but it is preposterous to encourage people to come here until coffee is protected in such manner as Congress may devise to put it upon a paying basis, and until science has solved the problem of eradicating pests.

It has been demonstrated that of the various branches of agriculture tried in Hawaii coffee is, up to the present time, the one best suited to the man of limited means. Nothing is more beautiful than a home in the center of a coffee plantation, and there the American will find his surroundings most pleasant.

If the 200,000 acres mentioned can be settled on by American families, then this Territory would indeed be not only the paradise of the Pacific, but the paradise of the world, a condition which can not in reality exist while sugar and rice are the only industries which may be profitably maintained.

JOHN M. HORNER & SONS,
By A. HORNER.

Memorandum of expenses.

Rents	\$10.00
Hoeing	18.00
Pruning	5.00
Picking 5,200 pounds berries, or 1,000 pounds cleaned coffee	32.76
Delivering same from field to coffee house	2.96
Pulping, drying, and bagging 5,200 pounds berries	6.625
Cost of bags for parchment .....	.867
Cost of bags for clean coffee	1.428
Cartage to landing .....	.487
Shipping at landing .....	.125
Freight to Honolulu	2.37
Freight to San Francisco	1.625
Cartage in Honolulu .....	.325
Hulling, polishing, grading	7.625
Hand-picking	7.35
Cartage to wharf .....	.25
Marine insurance .....	.825
State tolls .....	.025
Two per cent loss in weight	2.00
Commissions	5.00
Total	105.244

By Mr. BURTON:

Q. What did you get for that coffee?—A. Nine and one-half cents per pound, that was the average.

Q. Could you get that now?—A. We would like to.

Q. Is it worth that now?—A. I think it is, yes.

Q. I want to ask you, presupposing that we would give a tariff on coffee—by reason of the fact that everybody on the mainland drinks coffee, and there is a cheaper article of coffee, called the Rio, that a great many poor people buy—a bounty for its production, what amount of bounty and what length of time would establish this development of your coffee?—A. I should say 4 cents a pound would be sufficient protection until we could get labor for less than we have to pay now.

Q. If you had 4 cents a pound for five years and dropped it to 2½ cents for the next five years, don't you think it would rebuild—in the shape of a bounty—don't you think it would rehabilitate your coffee?—

A. I think for the time the bounty was being paid, but for the present rate of wages—

Q. That is a good while, six to ten years. Has any effort been made to put your coffee on the market in the mainland on its merits?—A. I think so; coffee has been exploited in all parts of the United States. It took the blue ribbon—

Q. Have you established a commercial agency there that would handle your coffee? I do not know whether this is practical; I am asking for information. For instance, there are a good many people on the mainland who would buy your coffee regardless of price, if they knew that it was your coffee, and knew that it was unadulterated. Has any effort been made to get it in that shape?—A. I think so, but the wholesalers opposed it very strongly.

Q. Could you not establish your own organization down there, and introduce your coffee, so that, by and by, we would know that was Kona or Hamakua coffee or some name of that kind, but that they would know that that coffee was not adulterated? There are plenty of people in the United States that would buy all the coffee you could

grow if you could get it to them, and pay you for it at a price that would be very profitable. Hasn't that received practical attention?—

A. No, sir; because coffee has been so low.

Q. But if sufficient encouragement was given to an organization of that kind and agency of that form be established and carried on in a businesslike way it is my opinion you could sell your coffee at 20 or 25 cents, all you could grow, if you could get the knowledge to the purchaser that it is your coffee and that it is unadulterated, that it is superior in flavor. The coffee that I have drank, especially in Mana, is the best that I have struck. Horner, you ought to come to Hamakua. If you could get that coffee, there are many people in the United States that would pay you that price; but I was wanting to know if we give a bounty for growing coffee whether during the term of years covered by the bounty you would undertake to establish such an organization?—A. We would attempt to find out by that time. Under the existing conditions now you won't hear much of Hawaiian coffee in the future.

Q. It does not interfere with the sugar industry?—A. No, sir.

Q. It grows on higher land?—A. Yes, sir.

Q. Do you favor the importation of Chinese laborers here and restricted for agricultural purposes only?—A. Yes, sir.

Q. You do not think that would in any way hurt skilled labor?—A. I think it would hurt skilled labor. There is no question about it.

Q. Do you think it would have a tendency to de-Americanize the islands?—A. I do not think so. I think the islands would become much more prosperous.

Q. To bring the Chinese here for a limited time for a special purpose?—A. Yes, sir.

Q. Would you restrict them to the cane fields?—A. To manual labor.

Q. You mean agricultural labor; you would be contented with that?—A. Yes, sir.

Q. They were brought here some years ago under those conditions and were returned, as I understand it?—A. Yes, sir.

Q. Do you think that is the general impression of the islands, that that would be a good thing?—A. I remember some years ago a union was formed in Honolulu crying down the Chinese, and there was a law enacted preventing Chinese from coming in.

Q. Could a white man work in the cane field?—A. I have not seen any of them that would do it.

Q. Do the Hawaiians?—A. They do in some cases. There is not enough of them anyway. We have on our place 300 men and only 3 natives, and that is all.

Senator MITCHELL. What nationality are they, the men you have?

A. Chinese, Japanese, Portuguese, and a few white men.

Q. Is sheep raising much of an industry on these islands?—A. I do not know; I think Mr. Parker is a sheep raiser.

Mr. BURTON. No; he raises wild hogs.

Col. SAM PARKER. Do you blame the Hawaiians for not working in the cane field if they can get something else to do, such as ranching, stevedoring, where they get \$3 or \$4 a day?

A. No; I do not blame them; I would take it myself.

Col. SAM PARKER recalled to the stand.

By Senator MITCHELL:

Q. I would like to ask you, Colonel Parker, are you engaged in the cattle industry?—A. Yes, sir.

Q. Do you operate to a large extent?—A. There is an assessor around here—ask him.

Q. I want to know a little about the sheep industry; could you tell us anything about it?—A. All I can say is that I have been in the sheep industry for about two and a half years. A great many years ago my grandfather was in the sheep industry.

Q. Could you give us any idea of the number of sheep on the island?—A. Yes; I think there are about 100,000.

Q. On all the islands?—A. Yes, sir.

Q. How does that compare with the number say five or six years ago? Is it increasing or decreasing?—A. It holds up about the same. We ship all our sheep to Honolulu; they consume about 20,000 annually.

Q. Do these islands raise sufficient amount of beef, meat—take all kinds of meat, does it meet the demands of the consumption?—A. No, it does not. I am connected with the Metropolitan Meat Market in Honolulu, and we have to import a great deal of our mutton, pork, from the United States—San Francisco—in cold storage.

Q. You get your surplus from San Francisco?—A. Our beef, mutton—fish, too, comes from San Francisco.

Q. Do you bring fish from San Francisco?—A. Yes; bring it to Honolulu, and bring it to Hilo here, too; I don't know how much, but they do in Honolulu.

Q. Comparing your cattle industry, is it increasing or decreasing?—A. About the same.

Senator MITCHELL. When we adjourn here to-night there will be no more sittings here. We will hold one up at Mountain View, so if there are any gentlemen present to-night who have anything to say, we hope they will come forward.

Col. SAM PARKER. They are a little bashful. I see Mr. Terry in the audience; I think he could say something.

Mr. W. S. TERRY, being first duly sworn, in answer to questions propounded by the subcommittee testified as follows:

By Senator MITCHELL:

Q. State your name, age, residence, and occupation.—A. W. S. Terry; 46 years old; Hilo. Occupation at present time, milling coffee.

Q. How long have you resided in Hilo?—A. Twenty-three years.

Q. What has been your business generally during that time?—A. I have been at almost everything. I don't know anything that I have not done except lawing.

Q. How long have you been engaged in milling coffee?—A. Since July, 1897.

Q. Where is your mill?—A. Hilo. I should say before that I started in first at a boarding school; had charge of the Hilo Boarding School up here; and I planted an acre of coffee. I think it is safe to say I was the second one who planted coffee in this district. The first was planted in Olaa just about the time the Volcano road was built.

Q. What time was that?—A. About 1890.

Q. Was that the first coffee planting on this island?—A. No. There has been coffee planted here, as I understand it, from old times. A good portion of the town has been in coffee trees; but this that I am speaking of was the first of the last boom that we had in coffee. Coffee then was at an exceptionally high price. Those who went up there planting coffee used to talk about not taking anything less

than 20 to 23 cents a pound for their coffee in parchment. I have paid 18 to 20 cents a pound for coffee in parchment in 1897.

Q. You have no paper prepared?—A. No, sir.

Q. State briefly the condition of the coffee industry in this island from your standpoint.—A. The first that I knew of coffee was this man Sunter came along and started right in the forest and planted coffee, and it seemed to start from this one man; as I say, I was in charge of the Hilo Boarding School, that is, the industrial department, and I sort of got my ginger in coffee and put an acre in—I think it is safe to say that I was second man to this man Sunter—and I watched the growth of coffee pretty well. Well, coffee seemed to come down, whether it was overproduction in other parts of the world I can not say, but coffee came down. I can buy better coffee now at 6 cents than I used to buy it at 18 cents in 1897.

Q. Could you tell what it costs to produce a pound of coffee in this Territory?—No, sir; I am not in the raising.

Senator BURTON. The best quality of coffee can be grown here, can it not—equal to the Guatemala coffee?

A. I can not say that I am acquainted with Guatemala coffee. I came here in the year 1879 and I got out on one of these plantations where coffee was made pretty strong, and I have drunk coffee ever since, and I think I am drinking coffee now that is better than I ever had in my life.

Senator FOSTER. Are these coffee lands owned in fee simple?

A. Yes, sir; there are quite a number of Portuguese homesteaders out in Hamakua that I come in contact with. One man in particular came in here and sold me some coffee, and when the coffee got here a lawyer came in with a document and secured the coffee for the store he was indebted to. In conversation with the man he said there were ten children in the family; he had to leave his family there in Hamakua and go to work on a plantation. I think that has happened in several cases out there. I do not think coffee is a failure as far as the growth is concerned if it is in the right locality. I have been in Hamakua several times where Mr. Horner and Mr. Louisson are located.

Senator FOSTER. Some of these lands are leased lands are they not?

A. I think Mr. Louisson owns his lands in fee simple and these Portuguese have homesteads.

Q. You do not know of any leased lands for growing coffee?—A. I don't think I can say.

Q. What are those lands valued at per acre?—A. That I can not say.

Q. For coffee that has been set out three or four years?—A. I don't believe I would be authority on the value of lands. I think a great deal of the coffee grown here so far has been cured by inexperienced men. I know I have had to get all my experience in milling here in Hilo, and when I look back at when I first started in I don't know how I made a go of it. Some of them have made a very poor success in curing their coffee. That is where they have lost a great deal of money, in losing the coffee, not taking care of it, not giving it the proper treatment. I have come in contact with coffee and it is too bad that it ever came into the market at all; still there are others who have made a success of curing their coffee. Louiss Brothers are curing their coffee in an excellent manner. I would say that this mill of mine is running and is full. I had 12 tons come in there yesterday

and I would be glad to have the committee to visit the mill and see for themselves. I have got some fine coffee there.

Mr. J. U. SMITH. Why don't you give the committee some to try.

Mr. TERRY. They might find some to take home with them yet.

Mr. R. A. LYMAN, being first duly sworn, testified as follows:

By Senator MITCHELL:

Q. State your name, age, residence, and occupation.—A. Rufus A. Lyman; born in Hilo, Hawaii, June, 1842.

Q. Have you resided ever since on the islands here?—A. Most of the time here, Hamakua, and Puna.

Q. What positions have you held under the monarchy and present government?—A. Secretary of the governor of Hawaii, lieutenant-governor through the death of Lunalilo in 1870, commissioner of boundaries at that time and afterwards for this island. Then I held minor positions at the same time under the monarchy.

Q. What positions do you hold under the republic, if any?—A. After I went out of the office of lieutenant-governor I became tax assessor of Hilo, assessor and collector in Hamakua under Kalakaua.

Q. You are familiar, then, with the manner of the disposition of public lands under the monarchy?—A. I was formerly.

Q. Are you familiar with the present mode of the disposition of public lands?—A. Not so much now.

Q. You have a general idea and knowledge of how the public lands are disposed?—A. Yes, sir.

Q. How do you regard the present system with the system under the monarchy?—A. In some respects it might be better.

Q. In what respect?—A. I think this going out and camping for over a week to get the choice might be remedied.

Q. What do you mean by that?—A. If a man wants to get a piece of land, he is compelled to take his place in line and stand there perhaps a week before the office is opened, and it causes people to speculate for their places.

Q. You think that is not in the interest of public service?—A. It encourages persons to speculate for their seats.

Q. Would you from your knowledge of the situation here, not only now, but heretofore, would you recommend that the present system be continued or that the whole business be placed under the General Government?—A. I am not familiar with the American system of land laws, so I can not compare the two.

Q. Generally speaking, you would not care to say which is best?—A. Not without examining the American system.

Q. You think, then, that there are defects in the present system?—A. Yes, sir.

Q. Can you point them out?—A. There are some ways of getting land to actual settlers who do not intend to speculate.

Q. You think that under the present system speculators are encouraged?—A. Yes, sir. The failure of coffee had a great deal to do with it.

Q. Anything else, Governor, that you would wish to say to the committee?—A. I did not come here to say anything to the committee. I should say that a breakwater on the reef is one great necessity, but I think that it should follow the natural reef instead of cutting the harbor in two. It runs halfway between Cocoanut Island

and the buoy, and goes around in the shape of a horseshoe, with one small channel through it where vessels have gone through sometimes. Inside of that, between Cocoanut Island and that reef, there is a mud and sand bottom.

Q. What you want here is authority from Congress to survey and estimate the cost of building this breakwater? We want to listen to all suggestions as to the proper place to build.—A. We did not have such a high surf on the beach when I was a boy. Before we could not land on the beach; now it is only a few days at a time that the surf is very high and rough. Whenever it is rough and the winds come in from the north, it breaks over the reef.

Q. Anything else, Governor?—A. I would like to state that at the time of the overthrow I was not in office except some little minor positions.

Q. I suppose you would leave it to the United States engineers as to the proper points to build a breakwater?—A. Yes, sir; they are better qualified. In reference to the Crown lands, I consider that the Queen if she had remained on the throne was entitled to the income since she left—

Q. That would be her right in connection with her lands?—A. In 1865 Kamehameha stated to me at the time that they were private lands of Kamehameha III, and he gave them to all the people in the islands, and during his lifetime he parted with a many good lands.

Q. About what year was that?—A. About 1853.

Q. What time was it he made this division of land?—A. 1840 or 1848, I would not be positive about that. Kamehameha IV parted with a great many lands and after his death he was heavily in debt, and his older brother took the Crown lands and said they would have to be sold to pay his debts and the time would come when the Crown would have no lands at all, so in order to preserve them to the Crown he made them Crown lands. They could be leased for thirty years and could not be sold; none of the income was to come to him until his brother's debt was paid and until Queen Emma's dower was paid.

Q. And until that time the profits were to come to the sovereign?—A. Yes, sir. I used to collect the amounts here and sent them to the commissioners.

Q. Could you tell the commission anything about the amount the Queen received?—A. No; I had nothing to do with that. At that time it did not come from the legislature. It was, during Kalaukau's time, about \$100,000; but after that it increased.

Q. Went much higher?—A. Yes, sir.

Q. Did they have to make any accounting of this money?—A. No, sir; I understand they did not.

Q. Were you here when the Queen was dethroned?—A. I was in Hilo.

Q. Were you familiar with the circumstances that surrounded her dethronement?—A. Only by hearsay.

Senator BURTON. Was there any general information on that subject as to how she was dethroned? I speak more particularly with reference to the fact that she could not have been dethroned if no aid had been given by the American troops.

A. I may be mistaken, not having been in Honolulu.

Q. Would she have been dethroned at the time, except for the intervention of the Federal Navy?—A. I think she would. After they started they would either have put her off the throne or taken prisoners all who were in it.

Q. Did you favor annexation?—A. Yes, sir, if it had to come; I favored a protectorate in the first place, on account of the labor system; but they said that could not come, and the sooner annexation came the better it was for us.

Q. What is the sentiment here regarding a compensation for the Queen?—A. I think it is the feeling that she ought to have something.

Q. What is her standing as a woman and as an American citizen in Hawaii?—A. As far as I know, she stands well, and I know of her telling her people when the Senators came before that she would not allow them to come and see her. She wanted to abide by the American Government and be a good citizen.

Colonel PARKER. When Kamehameha V died, who came on the throne then?—A. Lunalilo.

Q. Was he entitled to all the crown lands—the revenues from the crown lands?—A. Yes, sir; when he became monarch.

Q. Who came next after he died?—A. Kalakaua.

Q. And he was entitled to the crown lands?—A. Yes, sir; I think he was.

Q. And you think she was entitled to them during her life?—A. There was no provision stating that she was not entitled to them.

Q. So you think she is entitled to something now?—A. Yes.

Q. What do you think is a fair sum ought to be given her from the receipts?—A. I can not say what amount should be given.

Colonel PARKER. I was one of her ministers, and I will say that I was also one of the crown commissioners—minister of foreign relations—and we had a commission consisting of Mr. Iokea, of Wailua. He was one of the members. But all the leases were to be signed by all the members. I think there was a minister of finance comprised of three commissioners—minister of finance, minister of foreign relations, and minister of public lands.

Q. What revenue was derived from the crown lands two or three years previous to the dethronement, say \$100,000?—A. I would not be positive as to that. It takes a little time to remember these facts, and I would not care to guess at it.

Sheriff ANDREWS. Do you not know, as a matter of fact, that the officers of the *Pathfinder* made a complete survey of the Hilo Harbor?—A. I believe they did.

Senator BURTON. That would not make any difference.

Senator MITCHELL. That is all, Governor. We will adjourn until to-morrow at Mountain View.

MOUNTAIN VIEW, ISLAND OF HAWAII,
September 20, 1902.

NICHOLAS RUSSELL, sworn.

Senator MITCHELL. Doctor, we have come here at the request of your people, speaking through Mr. Ryan, who addressed us a letter, and we will be compelled to say what we have done every place else—that is, select your spokesman to represent the interests you do represent, and we will hear him or one or more. Of course we can not hear everybody; we could not in Honolulu and we could not in Hilo; we could not at the other island. You having selected a spokesman, speak through him, either one or more. We want you to be brief and at the same time speak fully in regard to the interests you represent. What interests do you represent here?

Mr. RUSSELL. The independent white farmers.

Senator MITCHELL. State your name, age, and occupation.

Mr. RUSSELL. My name is Nicholas Russell; my profession is physician, and my present occupation and for eight years before is farming.

Senator MITCHELL. How long have you lived in these islands?

Mr. RUSSELL. Ten years.

Senator MITCHELL. What public positions have you held or do you now hold?

Mr. RUSSELL. The only public position worth speaking of, I am a senator of the Territorial senate, and I was for the half of the session; I have been president of the senate.

Senator MITCHELL. How long have you been Territorial senator?

Mr. RUSSELL. For this session, now a year and a half.

Senator MITCHELL. And you were president of the senate last session?

Mr. RUSSELL. Yes, sir.

Senator MITCHELL. Are you familiar with the labor conditions of this island?

Mr. RUSSELL. Yes, sir; I think I am sufficiently familiar.

Senator MITCHELL. Have you been selected as one of the spokesmen for the people of this vicinity?

Mr. RUSSELL. I will not take your time at all; whatever I have to say on my own account I have it here on paper.

Senator MITCHELL. Have you it ready now?

Mr. RUSSELL. I have it ready.

Senator MITCHELL. Is it lengthy?

Mr. RUSSELL. Well, I will show it to you. These are the exhibits, and this is the paper [handing the same to the chairman]. I do not understand you should read it.

Senator BURTON. Let it be made a part of the testimony.

Senator MITCHELL. You present this memorial to the committee and ask that it be made a part of your deposition?

Mr. RUSSELL. Yes, sir.

Senator MITCHELL. And these are the exhibits to be attached to the memorial?

Mr. RUSSELL. Yes, sir.

Senator MITCHELL. They will all be made a part of the record.

Mr. RUSSELL. Yes, sir.

Senator MITCHELL. Now, Doctor, is there anything else you wish to say?

Mr. RUSSELL. No, sir.

NICHOLAS RUSSELL—Recalled.

Mr. DE KNIGHT. Doctor, you are the president of the Territorial senate?

Mr. RUSSELL. Yes, sir; for one half session, when I offered my resignation.

Mr. DE KNIGHT. Will you please state to the committee the sentiment in regard to the claim of the Queen?

Mr. RUSSELL. As far as I understand in going around with the natives and living such a long time, ten years, and after living personally here in the revolution, I understand the opinion of the natives is that the revolution, so called, was and is due to the support of the United States consul and the United States troops; that the taking possession of these islands in such a manner by a certain class of peo-

ple was illegal, and of course we can not go back on that now. We are at present faithful and obedient citizens of the United States, but as a matter of fact we considered, and all the native people here considered, that her former Majesty the Queen is certainly entitled to some consideration for the rights that she has lost in that violent hour, and especially for the public lands to which she has certain title.

Senator BURTON. You speak about her being dethroned by the aid of the United States Government. You mean our Minister Stevens?

Mr. RUSSELL. I mean minister; yes.

Senator BURTON. You think, then, the revolution would not have been successful if not aided by the United States minister?

Mr. RUSSELL. I am sure. The Queen had at her disposal considerable force of an army—natives, regular troops—and if she wanted she certainly could disperse a crowd ten times larger, but seeing the United States troops were landed and were ready to support the claims for her dethronement, she, in order to avoid bloodshed, gave it up.

Senator FOSTER. Were you opposed to annexation?

Mr. RUSSELL. Not at all. I was rather opposed to annexation from the point of view as a United States citizen, as I was a United States citizen at that time. I was opposed because I did not think it would be in the interest of the United States.

Senator MITCHELL. About how many people in the Kingdom—I mean men—were actively engaged in favor of the overthrow of the Queen?

Mr. RUSSELL. I think perhaps not over 1,000.

Senator MITCHELL. How many troops had Her Majesty at her command?

Mr. RUSSELL. I can not tell exactly now. Certainly it was a disorganized crowd, and the regular troops would have had an easy job then if they had been ordered to act.

Mr. RYAN. Doctor, how long have you lived in the Hawaiian Islands?

Mr. RUSSELL. Ten years.

Mr. RYAN. What is your profession?

Mr. RUSSELL. Physician.

Mr. RYAN. Are you acquainted with the public land system here in Hawaii?

Mr. RUSSELL. My opinions in that respect are stated in the memorial that is presented. I am authorized by this whole crowd here present, about 50 white settlers, who are farmers here around, in addition to all the statements included in my memorial and in Mr. Ryan's memorial, and in all the exhibits presented in addition to that. They complain that the public land is sold to them at a very high price; that they request that this price should be lowered down; second, they pay too high interest; 8 per cent, paid in advance, one-half annually, is a very high rate of interest under such circumstances. They complain of the absence of roads, in spite of the legislative appropriations for these roads, in their section of the country. They complain that they are placed off, about 50 or 60 families, or so many, with one-half hundred children of the school age who have no schools. They state that the land here is so heavily timbered that it costs about \$100 an acre to clear it; that they are charged from \$6 to \$12 per acre for said land; that the soil is really poor because of the abundant rainfalls, which leach the ground, and which will never bear anything unless you fertilize it. Under all these circumstances, nearly one-half of them, I think, have abandoned their homesteads and gone away, and those that are left will be compelled to go also unless something is done.

Senator MITCHELL. How many gentlemen are here to-day, taking an interest in these proceedings, that live here?

Mr. RUSSELL. About 50.

Senator MITCHELL. What is their nationality?

Mr. RUSSELL. There is about 25 per cent of them American-born citizens; there is perhaps another 25 per cent of Portuguese who are settlers of the islands over ten years, and there is perhaps one-half of them, more or less, fresh arrivals, within five or six years, from different nationalities, including Russians and others.

Senator MITCHELL. Do you understand, Doctor, that all these gentlemen present are in accord with the views expressed by you here, and by Mr. Ryan and the other gentlemen, on the land question and other questions?

Mr. RUSSELL. That is my understanding.

Senator FOSTER. Are they all citizens and voters?

Mr. RUSSELL. Those who are more or less fresh arrivals have first citizen's papers—about one-half of them.

THOMAS J. RYAN, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. RYAN. Thomas J. Ryan; 43 years of age; my residence is in Mountain View; farmer.

Senator MITCHELL. How long have you lived here?

Mr. RYAN. About seven years.

Senator MITCHELL. Where were you born?

Mr. RYAN. In northeastern Iowa.

Senator MITCHELL. What business were you engaged in before you came here?

Mr. RYAN. Farming.

Senator MITCHELL. Any other?

Mr. RYAN. Pretty much all my lifetime was a farmer; at various times I have been employed in some other occupation.

Senator MITCHELL. How long ago did you come here?

Mr. RYAN. About seven years ago.

Senator MITCHELL. And engaged in farming since?

Mr. RYAN. Yes, sir; general farming; I spent some time in Minnesota and northern Iowa, farming there; since I came to Hawaii I have been doing the best I could; I have driven a mule team and I have worked in a store, and have managed a store, and for a little while I have been trying to farm.

Senator MITCHELL. Are you a lawyer by profession?

Mr. RYAN. No, sir.

Senator MITCHELL. Have you been selected by the people of this community to represent them before this committee?

Mr. RYAN. Well, not particularly or specially. I have been requested by many to set forth the general views, my general views, and, as nearly as I can, represent theirs; and some time ago, about three years, we had an association formed for the purpose of obtaining information concerning the legal status of the public lands in Hawaii, and the association elected me president, and as such I have sort of—they looked to me to look out for their interests on general principles.

Senator MITCHELL. Have you made a thorough investigation of the land system in this Territory?

Mr. RYAN. A very thorough one.

Senator MITCHELL. Do you claim to understand the laws, the present laws, applicable to the land system in this Territory?

Mr. RYAN. I do, second to none in the Territory.

Senator MITCHELL. How did you acquire that knowledge?

Mr. RYAN. By hard study and examination and watching how it is administered, and by taking particular interest in the matter, because the responsibility to a great extent was left upon me.

Senator MITCHELL. State if you are familiar with the administration of the land laws of this Territory by the present authority here.

Mr. RYAN. I am.

Senator MITCHELL. Have you prepared any paper upon this general subject of the land system?

Mr. RYAN. I have.

Senator MITCHELL. For the use of the committee?

Mr. RYAN. I have.

Senator MITCHELL. Have you it here?

Mr. RYAN. I have.

Senator MITCHELL. Will you present it?

Mr. RYAN. Yes, sir; here it is [handing paper to chairman], and in addition to that I have a—

Senator MITCHELL. One moment. Does this paper contain your views on the existing laws of this Territory on the subject of public lands?

Mr. RYAN. Briefly.

Senator MITCHELL. Does it contain statements you wish to make under oath in regard to the administration of these laws?

Mr. RYAN. They do so far as I make statements.

Senator MITCHELL. Pretty fully, does it?

Mr. RYAN. Well, in connection—

Senator MITCHELL. Now, one moment. Now, what have you to supplement or accompany this, if anything?

Mr. RYAN. This list of exhibits [handing exhibits to chairman].

Senator MITCHELL. What are they?

Mr. RYAN. The land act of 1895; the changes which they gave it since; this is a resolution required by the legislature and furnished by the commissioner of public lands.

Senator MITCHELL. Taking up these exhibits in their order, Exhibit 1 is what?

Mr. RYAN. Land act of 1895.

Senator MITCHELL. Exhibit 2 is what?

Mr. RYAN. Digest of the land act of 1895, as prepared by the Territorial government, since annexation, claiming to show the modifications.

Senator MITCHELL. What is Exhibit 3?

Mr. RYAN. It is a resolution asked for by the house of representatives of the Territory of Hawaii for all land transactions made by the commissioner of public lands from the year 1890 to the present date, which was March 26, 1901, covering a period of about ten years.

Senator MITCHELL. That was introduced in the house, was it?

Mr. RYAN. Yes, sir.

Senator MITCHELL. Did it pass the house?

Mr. RYAN. Yes, sir.

Senator MITCHELL. Did it pass the senate?

Mr. RYAN. I am not certain; I think it was a house resolution.

Senator MITCHELL. What was done in pursuance of the resolution? Was the information called for furnished to the house, do you know?

Mr. RYAN. Yes; this information follows.

Senator MITCHELL. The information follows as a part of the same exhibit?

Mr. RYAN. All the same exhibit.

Senator MITCHELL. Now, what is Exhibit 4?

Mr. RYAN. Report of the commissioner of public lands to the legislature for the year ending December 31, 1900.

Senator MITCHELL. What is Exhibit No. 5?

Mr. RYAN. The land transactions of the republic of Hawaii, July 7, 1898, to September 30, 1899, which was approved by the President, under the provision under section—

Senator MITCHELL. President of the United States, you mean?

Mr. RYAN. President of the United States.

Senator MITCHELL. November 30, 1900?

Mr. RYAN. In accordance with section 73 of the land act.

Senator MITCHELL. Now, Exhibit 6?

Mr. RYAN. Exhibit 6 contains a copy of a protest which something like 20 citizens of the United States sent to Washington. I am not certain it was addressed to the President of the United States.

Senator MITCHELL. What date?

Mr. RYAN. June 24, 1899, and signed by something like 20 citizens, protesting against the sale or further disposal of the public lands in Hawaii until such time as Congress shall have enacted special laws.

Senator MITCHELL. This is published in the Hawaiian Herald?

Mr. RYAN. Hawaiian Herald, Thursday, October 5, 1899.

Senator MITCHELL. Now, what is Exhibit 7?

Mr. RYAN. I will add before this, for the information of the commission, that these protests have been referred to the Secretary of State.

Senator MITCHELL. That is Exhibit 6?

Mr. RYAN. Have been referred to the Secretary of State at Washington; was referred by the Secretary of State to the governor of the then existing government of Hawaii; and in the meantime the notice was given the public by these commissioners of public lands—the local commissioners here—was the publication of the notice offering for sale something like 18,000 acres of this public land. Then we renewed our protest, a copy of which I have not for your information, but the renewed protest was signed by many more citizens, something like 30, or perhaps more. It was referred to the Attorney-General by the Interior Department; this second protest was directed to the Interior Department and also to the President.

Senator MITCHELL. Is that Exhibit 7?

Mr. RYAN. No; the petition following this one on which this was based, Exhibit 7.

Senator MITCHELL. When the Secretary of State referred this first petition back to the commissioner of lands in this Territory, did he accompany it with any instructions one way or the other?

Mr. RYAN. I have not been able to learn.

Senator MITCHELL. What is Exhibit 7?

Mr. RYAN. In reply to our second protest, which was sent to the Interior Department, and which was also duplicated to the President, was referred to the Attorney-General's Office, and this is his first opinion.

Senator MITCHELL. That is Exhibit 7?

Mr. RYAN. Yes, sir; Exhibit 7.

Senator MITCHELL. The opinion of the Attorney-General of the United States?

Mr. RYAN. Yes, sir; John W. Griggs.

Senator MITCHELL. And that opinion is published in the Hawaiian Gazette?

Mr. RYAN. Yes, sir; Tuesday, October 3, 1899.

Senator MITCHELL. Now we come, Mr. Ryan, to Exhibit 8. What is that?

Mr. RYAN. Exhibit 8 shows the published order of the President of the United States, the Executive order dated September 28, 1899—no, I think it was dated September 11, 1899—signed by William McKinley, President of the United States, etc., directing as follows:

The President of the United States hereby directs that all proceedings taken or pending for the sale or disposition of the public lands in the Hawaiian Islands shall be discontinued, and that if any sales or agreements for sale of said public lands have been made since the resolution of annexation the purchaser shall be notified that the same are null and void, and any consideration paid to the local authorities on account thereof shall be refunded.

Senator MITCHELL. That is published in what?

Mr. RYAN. In the Hawaiian Gazette, at Honolulu, Friday, September 29, 1899.

Senator MITCHELL. And marked "Exhibit 8?"

Mr. RYAN. Yes, sir; and some other comment in reference thereto by the local papers.

Senator MITCHELL. This brings us to Exhibit 9. What is that?

Mr. RYAN. Exhibit 9 is sundry publications of local papers, as follows: The action taken by the local cabinet of the then existing government of Hawaii—

Senator MITCHELL. The action taken on what?

Mr. RYAN. On the opinion of the Attorney-General of the United States; and they are published in the Pacific Commercial Advertiser, December 7, 1899.

Senator MITCHELL. Is this the action?

Mr. RYAN. Well, it is the reported action, publicly known through the press. I can not get any of those papers. We have to take what we can get.

Senator BURTON. You say you could not get a copy of what action is taken?

Mr. RYAN. I do not think I could.

Senator BURTON. Have you tried?

Mr. RYAN. Well, I have not tried. If my opinion is worth anything, I do not think it would be any use to.

Senator MITCHELL. Now, Exhibit 10, what is that?

Mr. RYAN. That is, after this action of the cabinet has been taken as reported and currently known, the local existing government sent forward attorneys to argue the matter before the Attorney-General of the United States and to seek, if possible, a modification of that order, and it was presented to Attorney-General Griggs again, with their arguments as shown by his decision, and this is the second decision of Attorney-General Griggs, reaffirming—

Senator MITCHELL. Who represented the local government before the Attorney-General in arguing this case?

Mr. RYAN. It is reported by the press that it was General Hartwell, and I have been so informed, and believe that Attorney Rallou was then in Washington and assisted; perhaps others.

Senator MITCHELL. I will read this, so that the press can get it if they wish. This is the reported action of the local government on the first decision of Attorney-General Griggs, published in the Commercial Advertiser, Honolulu, December 9, 1899, and reads as follows:

IN THE CABINET—ACTION TAKEN ON ATTORNEY-GENERAL GRIGGS'S OPINION.

The cabinet met in regular session yesterday morning. The most important matter coming up for consideration was the opinion of United States Attorney-General Griggs, delivered to President McKinley upon a request from the Hawaiian government, through Hon. A. S. Hartwell, special agent, for reconsideration of the United States Executive order in the matter of public lands in Hawaii.

The opinion of the Attorney-General was read and, after extended discussion, the cabinet decided the entire matter had better rest until Congress met and acted upon it. The discussion, however, developed the fact that the cabinet feels assured that Congress, in view of the circumstances surrounding the land transactions, will pass legislation saving all purchasers from hardship.

Further discussion was had on the suggestion lately received from Mr. Hartwell, that President Dole and Judge Frear proceed to Washington in Hawaiian interests, but the cabinet deemed it inadvisable to send either gentlemen at the present time.

Senator MITCHELL. Now, then, Mr. Ryan, did Attorney-General Griggs, of the United States, deliver another opinion?

Mr. RYAN. Delivered a second opinion after such rehearing.

Senator MITCHELL. Does that appear in Exhibit 10?

Mr. RYAN. Yes, sir; published in the Hawaiian Gazette, Friday, December 8, 1899; Exhibit 10.

Senator MITCHELL. What, in brief, was the effect of that opinion? Did it conform to the former opinion?

Mr. RYAN. Exactly, only more complete and more extensive.

Senator MITCHELL. He adhered to his former opinion?

Mr. RYAN. Adhered to his former opinion.

Senator MITCHELL. Exhibit 11 is what?

Mr. RYAN. Exhibit 11 is a communication, published as a communication, Olan, February 28, 1900, directed to the editor of the Hawaiian Herald, and represents some views that I entertain myself.

Senator MITCHELL. Did you write this article?

Mr. RYAN. I wrote the article.

Senator MITCHELL. Is that all there is to Exhibit 11?

Mr. RYAN. The other represents some changes in the Hawaiian bill as reported in the public press.

Senator MITCHELL. Now, what is Exhibit 12?

Mr. RYAN. Exhibit 12 is a 2-column article, or nearly so, published in the Evening Bulletin, Honolulu, Territory of Hawaii, Tuesday, August 9, 1900.

Senator MITCHELL. What is it?

Mr. RYAN. It is the report of the press, showing the action taken by Judge Estee, of the United States district court, in reference to obtaining temporary quarters for his court rooms, and the published notice of his order in court, showing the difficulty he had with the local government in obtaining these quarters, and refers therein to the Attorney-General's opinion, which is in volume 22, pages 627 and 628, of the United States Statutes, to show that even this building belongs to the United States.

Senator BURTON. Decisions of the Attorney-General, you mean?

Mr. RYAN. Yes, sir; Attorney-General's opinion as referred to in the other exhibit.

Senator MITCHELL. Now, what is Exhibit 13?

Mr. RYAN. Exhibit 13 is the remarks of the Hon. Francis G. Newlands in the House of Representatives April 5, 6, and 26, 1900. and

the sentiments I indorsed personally, by signing, but it does not convey any other indorsements, so far as I know.

Senator MITCHELL. You have examined this speech carefully, did you?

Mr. RYAN. I have.

Senator MITCHELL. You approve of the position taken by Mr. Newlands, do you?

Mr. RYAN. Every one of them; and in my argument I think that reference is made to the controversy between Mr. Newlands and Mr. Knox, on page 13 thereof, in reference to the public lands in Hawaii.

Senator MITCHELL. Exhibit 14—what is that?

Mr. RYAN. Exhibit 14 is an extract from the United States Supreme Court decision showing the exclusive power of Congress.

Senator MITCHELL. What case?

Mr. RYAN. To legislate as to the public lands, in the case of *Gibson v. Choteau* (13 Wallace, p. 92).

Senator MITCHELL. What is Exhibit 15?

Mr. RYAN. Is a brief showing the sections of the United States Statutes, so far as I have been able to find.

Senator MITCHELL. Prepared by you?

Mr. RYAN. Made by me, taken from such statutes as I can find.

Senator MITCHELL. These are all live statutes?

Mr. RYAN. So far as I am able to know. I am not a lawyer, but I have hunted it out the best I could.

Senator MITCHELL. Now, what is this Exhibit 16?

Mr. RYAN. Exhibit 16 is an opinion rendered to the American Settlers' Association, to which I have referred.

Senator MITCHELL. What date?

Mr. RYAN. Hilo, Hawaii, September 12, 1899.

Senator MITCHELL. Prepared by whom?

Mr. RYAN. Prepared by Mr. Clinton A. Galbraith, who is now associate justice.

Senator MITCHELL. Hon. Clinton A. Galbraith?

Mr. RYAN. Yes, sir; associate justice of the supreme court of Hawaii—he is now, not then.

Senator MITCHELL. He was then a lawyer?

Mr. RYAN. Yes, sir.

Senator MITCHELL. Exhibit 16?

Mr. RYAN. It contains six pages of letters from the Commissioner of the General Land Office, referring to various questions concerning the public lands in Hawaii, mostly addressed to the American Settlers' Association.

Senator MITCHELL. They are the full letters; they are not extracts?

Mr. RYAN. No; they are the original letters.

Senator MITCHELL. Six of them?

Mr. RYAN. Yes, sir. I will say that the letter dated July 3, 1901, has reference to an inquiry made as to the—I will read it. The Commissioner says (reads):

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,

Washington, D. C., July 3, 1901.

AMERICAN SETTLERS' ASSOCIATION.

Mountain View, Oloa, Hawaii.

SIRS: I am in receipt of your letter of June 5, 1901, inquiring if the statement published in the papers that the lands in Kiowa, Comanche, and Apache Reservation are to be opened by drawing is correct, and stating that you believe the plan could be made to work well in the distribution of homesteads in Hawaii.

In reply, you are advised that the regulations in regard to opening the reservation mentioned have not yet been issued. When the President's proclamation is ready for distribution a copy will be mailed to your address.

Very respectfully,

BINGER HERMANN, *Commissioner.*

He has since made the proclamation. The last letter of that exhibit is directed from the Commissioner of the General Land Office to Hon. R. W. Wilcox, Delegate from Hawaii to the House of Representatives of the United States.

Senator MITCHELL. Read it.

Mr. RYAN (reads as follows):

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., September 27, 1901.

Hon. R. W. WILCOX,
House of Representatives United States.

SIR: I have the honor to acknowledge the receipt, by your reference, of a letter from T. J. Ryan, Mountain View, Hawaii, dated July 15, 1901, protesting against the disposition of certain lands by the commissioner of public lands of Hawaii.

In reply, I will state that as no statute has been enacted giving this office jurisdiction over lands in Hawaii, I have this day forwarded Mr. Ryan's letter to the honorable Secretary of the Interior for his consideration.

Very respectfully,

BINGER HERMANN, *Commissioner.*

Senator MITCHELL. Are you any relation to Assistant Secretary Ryan?

Mr. RYAN. Well, I don't think I am. I thought I was at one time, but we got it figured out that we are not.

Senator MITCHELL. You don't know that it has any particular bearing?

Mr. RYAN. Well, I don't want to own any relationship with him, since he can not figure out this land law any better than he does.

Senator MITCHELL. Exhibit 17 is what?

Mr. RYAN. Exhibit 17 is a letter addressed to the Senate of the United States, February 13, 1901, upon request of the Senate, or some committee thereof, to furnish some opinion connected with the introduction of—

Senator MITCHELL. It was in response to a resolution calling for information in regard to a certain measure pending in Congress, I suppose Senate bill 3090, in the first session Fifty-seventh Congress. The bill was introduced by Delegate Wilcox December 6, 1901, and referred to the Committee on the Public Lands.

Mr. RYAN. Yes, sir.

Senator MITCHELL. Exhibit 18, what is that?

Mr. RYAN. Exhibit 18 is a letter from Hon. H. C. Hansbrough, chairman Senate Committee on Public Lands.

Senator MITCHELL. And addressed to whom?

Mr. RYAN. Directed to the American Settlers' Association, Olaa, Hawaii, December 20, 1900, as follows (witness reads):

UNITED STATES SENATE, COMMITTEE ON PUBLIC LANDS,
Washington, D. C., December 20, 1900.

AMERICAN SETTLERS' ASSOCIATION,
Olaa, H. I.

DEAR SIRS: I shall be glad to receive any information you may have and any facts concerning the public land question in the Hawaiian Islands. The great difficulty here is to ascertain what are public lands and what are not public lands. Anything you may have on this point will be gladly received.

Very truly,

H. C. HANSBROUGH.

Mr. RYAN (continuing). These two letters belong in the same exhibit. The next is a letter from Hon. H. C. Hansbrough, dated November 21, 1901, directed to the American Settlers' Association.

Senator MITCHELL. That is a year afterwards, is it?

Mr. RYAN. Yes, sir. (Witness reads as follows:)

UNITED STATES SENATE, COMMITTEE ON PUBLIC LANDS,
Washington, D. C., November 21, 1901.

AMERICAN SETTLERS' ASSOCIATION,
Mountain View, Hawaii, U. S. A.

DEAR SIRS: I am in receipt of your very voluminous statements in regard to the public-land situation in Hawaiian Islands, and while I am very glad to receive all information you have on this subject, I must say that in view of the fact that my duties extend over other parts of the United States and pertain to many other questions of great importance, I shall be obliged to request that hereafter you put your communications in as brief and concise a form as possible.

Permit me to suggest that along with the bill you are preparing and which you are to send to me, you make a brief of the argument in support thereof. Newspaper clippings are of but little value. Generally speaking, they merely set forth one side of the question. If the circuit court has rendered a decision in the land cases which will shed light on the situation, I shall be glad to have the full text of the same. A good lawyer can make a brief of your case and put every essential argument in three or four pages of typewritten matter. With your assistance along the lines above indicated I shall be glad to cooperate in any way to bring order out of chaos with respect to the public-land system on your islands.

Very truly,

H. C. HANSBROUGH.

Senator MITCHELL. Exhibit 20 is what?

Mr. RYAN. Exhibit 20 is a publication by the Bulletin, August 8, 1901, which purports to be an interview.

Senator MITCHELL. What Bulletin?

Mr. RYAN. The Evening Bulletin, at Honolulu, which purports to be an interview with the land commissioner, E. S. Boyd.

Senator MITCHELL. Simply a newspaper article?

Mr. RYAN. Yes, sir.

Senator MITCHELL. Exhibit 21, what is that?

Mr. RYAN. It is a statement prepared by myself from official documents furnished by the local government to the authorities at Washington concerning leases expiring, as stated therein.

Senator MITCHELL. What leases does this refer to; leases of public lands generally?

Mr. RYAN. Generally—of the public lands generally in Hawaii.

Senator MITCHELL. Does it include leases of crown lands?

Mr. RYAN. They are all called public lands.

Senator MITCHELL. Do you claim to have a list here of all the leases of the public lands?

Mr. RYAN. I will show you what I have.

Senator MITCHELL. Do you claim that these two sheets purport to cover the time when certain leases of public lands expire? Now, what I want to know is, do these include all of the existing leases of public lands?

Mr. RYAN. Oh, no; not by any means.

Senator MITCHELL. Why do you give just a portion?

Mr. RYAN. Because it was a list that expired in the Territory of Hawaii since annexation, and also leases which had been canceled by the government at any time, as the tenants are held as tenants at will, together with leases which will expire in 1902. This was prepared in 1901.

Senator MITCHELL. What next?

Mr. RYAN. Copy of a clipping from the Evening Bulletin and Honolulu Republican.

Senator MITCHELL. Exhibit 22 is what?

Mr. RYAN. Exhibit 22 is a copy from the Hawaiian Star, in reference to the transfer or trade of public land with the Oahu Railroad Company for their land about the Honolulu Harbor.

Senator BURTON. Does that refer to that harbor deal?

Senator MITCHELL. This refers to lands over near the quarantine station at Honolulu?

Mr. RYAN. Yes, sir; I think so.

Senator MITCHELL. Well, this is a publication on that subject, the whole of it?

Mr. RYAN. All of it.

Senator MITCHELL. What is this doing here—this clipping?

Mr. RYAN. That is where Mr. Hatch appeared before some tribunal there.

Senator MITCHELL. What do you have to say about this transaction?

Mr. RYAN. This transaction? I think it is illegal and void.

Senator MITCHELL. Why?

Mr. RYAN. Because it involves the question of trading off the public domain of the United States, which is not within the authority of any Territorial officers and has not been conferred by Congress. If they can trade one acre for another acre, they can also have the authority of trading another acre for ten acres.

Senator MITCHELL. Suppose it all belonged to the United States and it was claimed the whole of it belonged to a private person, what would you say to an arrangement by which the part of it that really belongs to the United States was granted to the person making the claim under the law?

Mr. RYAN. I think the local authorities have no right to settle these kind of claims.

Senator BURTON. How do you claim that they can be settled?

Mr. RYAN. By the government that owns lands within the same jurisdiction.

Senator BURTON. Well, then, when the Government officers make an agreement of compromise, is not that a representation of the Government?

Mr. RYAN. Not in my opinion.

Senator BURTON. Well, what Government officers, then, can do it?

Mr. RYAN. It seems to me that if it is a matter of a claim it could be settled, perhaps, by the Court of Claims, or if perhaps it is not in the nature of a claim it perhaps could be referred to Congress.

Senator BURTON. The Court of Claims has no jurisdiction?

Mr. RYAN. Not over public lands. But I say if it resulted or arose under a claim perhaps the original claim can be commenced in the Court of Claims. I do not profess to know what proceedings would be taken.

Senator BURTON. Would not this be a better answer? You claim that Congress, I suppose, may dispose of and make all needful rules and regulations respecting the Territory and other property of the United States?

Mr. RYAN. That is what I claim.

Senator BURTON. Well, then, can this settlement be made even by a representative of the Government—Attorney-General, Secretary of the Treasury, Secretary of State—without the action of Congress?

Mr. RYAN. Not without specially provided authority, in my opinion.

Senator BURTON. What is Exhibit 24?

Mr. RYAN. Exhibit 24 is a newspaper article which was written by the—

Senator BURTON. I want to ask you about that harbor deal a little. Is it your claim that that deal was made by the government upon the one side—I mean the Territorial government—and Dillingham on the other or the railroad on the other?

Mr. RYAN. Yes, sir.

Senator BURTON. Who represented the government?

Mr. RYAN. I suppose Attorney-General Dole. I do not know.

Senator BURTON. I understand that special counsel, Mr. W. O. Smith, represented the government by special arrangement.

Mr. RYAN. I would not wonder, they make these special arrangements very often; quite likely; I don't know.

Senator BURTON. He is very capable to represent the Territorial government, is he not?

Mr. RYAN. Capable? Well, yes.

Senator BURTON. Do you think that it was a bad arrangement that was made?

Mr. RYAN. I have nothing to say in reference to whether it was good or bad. I question the authority of making it.

Senator BURTON. What is Exhibit 24?

Mr. RYAN. That is some local newspaper comment on some action taken by the settlers who settled on the public lands principally.

Senator BURTON. Is it referred to in your general statement here?

Mr. RYAN. I do not think it is.

Senator BURTON. Do you have anything further to say about 24?

Mr. RYAN. Nothing whatever.

Senator BURTON. What is Exhibit 25?

Mr. RYAN. Twenty-five is a comment copied from a Hilo paper by the Pacific Commercial Advertiser, August 20, 1900, showing that the settlers served some papers on Mr. Brown, then commissioner of public lands, objecting to his leasing or disposing of public lands, of which I can give further testimony when the commissioners require.

Senator BURTON. Well, give it right now.

Mr. RYAN. I drew up the protest myself and submitted it to the members of the association, and they decided that I had better go down to Honolulu and see that the papers were regularly served upon Mr. Brown, so that he would have no reason or excuse to say that there was no protest made prior to this disposition.

Senator BURTON. What was done respecting your protest?

Mr. RYAN. Nothing whatever that I know of.

Senator BURTON. Do you want to say anything more about that exhibit?

Mr. RYAN. Nothing, unless it brings up some question that the commissioners would like to ask for. I have no special—

Senator BURTON. Well, did the commissioner of public lands do any wrong by these leases?

Mr. RYAN. I think he is doing wrong pretty much all the time, and did in that case.

Senator BURTON. What is Exhibit 26?

Mr. RYAN. Exhibit 26 is my personal estimate of returns from an acre of sugar cane for two crops, which embraces a period of four years, on such lands as are located from 100 to 1,700 feet—above 1,700 feet, or thereabouts.

Senator BURTON. On the island of Hawaii?

Mr. RYAN. Yes, sir; on the windward side. It is impractical to carry on the raising of cane, etc.

Senator BURTON. What is Exhibit 27?

Mr. RYAN. It is a copy from one of the Honolulu papers, showing that it was taken from Town Talk, as published in San Francisco, and refers to the decision of Judge Humphreys in reference to the new plantations that were started since annexation. And while I do not say that it is very much evidence, I have in my argument, which I propose to further show the committee, if necessary, that following annexation there was a great boom or promotion of all kinds of enterprises by all kinds of men, and that it affected the public lands, and that extortionate prices for public lands were set upon the public lands for settlers, and that by reason of all this excitement and this great talk of profits, and all that, that the people generally, settlers, were imbued with the idea of going and taking same lands at any price, and that they are suffering the consequences now.

Senator BURTON. I comprehend a great deal better than most of the others do, because I have been in a Kansas boom myself. What is Exhibit 28?

Mr. RYAN. It purports to be a Washington dispatch published through the press, showing that the Territorial secretary, Henry E. Cooper, had been before the Commissioner of Agriculture detailing the wants of the agricultural people of Hawaii and impressing him or soliciting his aid in procuring more cheap labor for Hawaii, that the plantations were suffering, that the crops were being ruined, and that they could not be harvested, and appealing to the Department to aid in bringing more cooly—more Chinese.

Senator BURTON. What have you to say about that?

Mr. RYAN. I have almost too much to say, I should judge, to interfere with much other business; but I personally say that it is wrong; that it is detrimental to the best interests of Hawaii; that the report of the governor of the Territory of Hawaii, I think submitted by Acting Governor Henry E. Cooper, at the same time he was perfecting these arguments—

Senator BURTON. What date?

Mr. RYAN. For the year 1901—and other argument which he at that time made to the Department, shows that there were only 27,537 Japanese employed on the plantations at that time; that there were only 4,976 Chinese employed upon the plantations at that time—that made a total of 32,513 employed upon the plantations at that time of these alien coolies; that on page 5 another table in the same document shows that the total number of Japanese in Hawaii at that time was 61,122; that the total of Chinese at that time in Hawaii was 25,742, making the cooly class of labor in these islands at that time not employed upon the plantations 54,351; that there was no need or necessity of asking for any more cooly labor for any purpose, nor is there now.

Senator MITCHELL. You say that number was not employed?

Mr. RYAN. Not employed.

Senator MITCHELL. What did the acting governor, Secretary Cooper, recommend on the subject; anything?

Mr. RYAN. He recommends that we open our gates and allow them in by the hundred millions if they will come—all China. I do not know that I have a reference to the page here now.

Senator MITCHELL. This number that you mention includes women and children, does it?

Mr. RYAN. Certainly.

Senator MITCHELL. How many of the number would be capable of performing labor upon the plantations?

Mr. RYAN. All of them except the children.

Senator MITCHELL. Well, how many children?

Mr. RYAN. Very few, comparatively, have children among the Japanese; we will have more of them by and by. Waiving that for the time being, until I find the reference, we will go ahead.

Senator MITCHELL. What is Exhibit 29?

Mr. RYAN. Exhibit 29 is a letter from Hon. J. T. Stark, representing the Fourth Nebraska district, I think, showing that by invitation of myself he came up here to Olaa, and traveled away up on Hawaii for the purpose of ascertaining—at least my invitation directed that if he did come up to these upper elevations he would undoubtedly change his mind as to the heat of the climate here and that the salubrious climate of the upper lands here was properly suited to all kinds of American citizens and American laborers; and it appeared from an interview that I saw in the paper that he did conclude that it was pretty hot around Hilo.

Senator MITCHELL. What is Exhibit 30?

Mr. RYAN. Exhibit 30 purports to be an interview with public men in Honolulu in regard to how they could get the public surplus in the treasury out into circulation, and showing how vastly rich the Territory of Hawaii was in ready cash about November 24, 1899. I added a comment there.

Senator MITCHELL. What is Exhibit 31?

Mr. RYAN. Exhibit 31 is a letter from Hon. C. D. Clark, of Wyoming, I think, in which, among other things, he says:

I am much interested in seeing a proper solution of the land question in the islands. Ever since my last visit there I have been convinced that the most important question to be solved was the land question, and that it must be solved in such a manner as to give homes to the largest possible number of people.

Senator MITCHELL. That is dated December 6, 1901?

Mr. RYAN. Yes, sir.

Senator MITCHELL. What is the next, Exhibit 32?

Mr. RYAN. It is two letters from the Interior Department. The first one, dated July 14, 1900, is in reply to a letter of Mr. E. A. Horan, a member of the association of which I am president, asking if the right of appeal would lie, under the act of April 30, 1900, from the final decision of the commissioner of public lands of Hawaii to the Commissioner of the General Land Office or the Secretary of the Interior at Washington, D. C.

Senator MITCHELL. What does he say?

Mr. RYAN. He says in response thereto (reads):

DEPARTMENT OF THE INTERIOR,
Washington, July 14, 1900.

Mr. E. A. HORAN, Olaa, Hawaii.

SIR: Your letter has been received inquiring as to whether an appeal will lie, under the act of April 30, 1900, from the official action of the commissioner of public lands for Hawaii to the Commissioner of the General Land Office or the Secretary of the Interior at Washington, D. C.

In response thereto I have to state that hypothetical questions of this character are not considered by the Department. When the question presented by you arises in some particular case and is brought before the Department for consideration and action the question presented therein will be determined.

Very truly,

THOMAS RYAN, Acting Secretary.

Senator MITCHELL. It is a case of jump over the fence when you get to it?

Mr. RYAN. Yes, sir.

Senator MITCHELL. What were you going to say?

Mr. RYAN. I was going to add that there is no way of starting the thing here—can't get it up. We are very willing to.

Senator MITCHELL. What you want is a way to start it? ♦

Mr. RYAN. A way to start it.

Senator MITCHELL. You want the Government of the United States to have charge of the public lands of Hawaii, do you?

Mr. RYAN. I do.

Senator MITCHELL. Instead of the Territorial government?

Mr. RYAN. Certainly.

Senator MITCHELL. What is Exhibit 33?

Mr. RYAN. Exhibit 33 is some copies of columns of newspapers published in Hawaii, which the American Settlers' Association had reprinted and put together and paved Washington with them.

Senator BURTON. You seem to go a good deal on the newspapers down this way; do they have any influence?

Mr. RYAN. Not at all.

Senator BURTON. Why do you quote them so extensively then?

Mr. RYAN. Because, like public officials, they contradict themselves so often is one reason.

Senator BURTON. You make them witnesses against themselves then?

Mr. RYAN. Every time; it is the best evidence.

Senator BURTON. What is the next, Exhibit 34?

Mr. RYAN. The last, Exhibit 34, is a letter from the Secretary of Agriculture. I would like to add, in reference to that letter, that we were very much placed in the same position that Mark Twain was when he had his first beef contract. He had gone through all the Departments, and finally when he got desperate he hauled up at the Patent Department and came in and undertook to run the whole thing until he got his pay; but finally he was put out, and afterwards he got some kind of satisfaction and gave the claim to some fellow in the Department because he spoke civilly to him; and we saw in the Agricultural Department that there was a Bureau of Animal Industry, and probably if we could not get in anywhere else we might get in there. But Mr. Wilson treated us very kindly and very properly. He stated positively that he had nothing whatever to do with the public lands in Hawaii or anywhere else, and he did not refer our letter to anybody else. Everybody else did refer letters, and that is all we heard about them.

Senator BURTON. Well, now, you want this statement that you have presented to go in as a part of the evidence, together with the exhibits that you have gone over and turned over to the committee, and go in under oath?

Mr. RYAN. Yes, sir.

Senator BURTON. Well, now, Mr. Ryan, what other statements do you want to make? What special remedies do you suggest? If you can, do it as briefly as you can, because I take it you have suggested remedies very fully in these papers, have you not?

Mr. RYAN. I have. And further than—I will add, further, that the only speedy, proper, right, legal remedy is to pass Senate bill 1344, introduced by Senator Mason and referred to the Committee on Pacific

Islands and Porto Rico, which is now pending in the Fifty-seventh Congress and under consideration by that committee.

Senator BURTON. Who wrote that bill?

Mr. RYAN. I finished the writing of it myself.

Senator BURTON. Well, it was practically framed here then. Have you given it very careful consideration?

Mr. RYAN. Very careful consideration—the combined views of very many men, not only here locally, but at other places. I had gathered up various ideas for two years prior.

Senator BURTON. If my memory serves me right, your land commissioner here opposes that bill. Do you know why?

Mr. RYAN. Why? No. But I have some, well, I have some ideas of why, but they are personal. I have no positive. He never made any statements here that I know of. I don't believe he made any statements that anybody could tell, even though he was submitting these statements to me, why he was opposing. He was opposing it on general principles, just because it was not the land act of 1895, as near as I can get at it.

Senator BURTON. But he says in substance that the land laws of the United States on the mainland can not be made to apply to Hawaii because of the peculiar conditions that exist here.

Mr. RYAN. Well, that "peculiar condition" story is something that they have all lined up with, and that is the argument for everything. There is no reason offered.

Senator BURTON. Is there anything further you want to say?

Mr. RYAN. I want to say that this is not the land laws of the United States, nor will it be until Congress passes it; nor is it a timber-culture law nor a preemption law nor a homestead law; but it is a law along the lines indicated by the President of the United States in his message to the Fifty-seventh Congress, in which he says:

In Hawaii our aim must be to develop the Territory on the traditional American lines. We do not wish a region of large estates tilled by cheap labor; we wish a healthy American community of men who themselves till the farms they own. All our legislation for the islands should be shaped with this end in view. The well-being of the average home maker must afford the true test of the healthy development of the islands. The land policy should as nearly as possibly be modeled on our homestead system.

And although that bill was drawn prior to the publication of this message, and the large number of people who participated in drawing that bill had no knowledge—yet, a strange coincident occurs that that bill is modeled on American traditional lines, and is modeled along the homestead system of the United States, and it is a bill which is aimed to fit, peculiarly fit, the peculiar conditions which they talk about in Hawaii.

Senator BURTON. Is there anything further now; that is the principal grievance that you have here—the public land laws and their administration?

Mr. RYAN. That is about the chief trouble here.

Senator BURTON. And you want the Federal Government to take charge of this matter instead of the Territorial government?

Mr. RYAN. Just the same as they do in Kansas, Oklahoma, New Mexico, Arizona, and everywhere else; we do not want any extras or new departures, so far as the American citizens coming here are concerned, to build up homes in this Territory of the United States and be a part of it.

Senator BURTON. Is that all that you have, Mr. Ryan?

Mr. RYAN. That is all that I will undertake to take the time. Here are witnesses outside, victims, if you please, of this pernicious law and its administration in Hawaii.

Senator BURTON. Have you not shown that all up by your statement, Mr. Ryan, for them?

Mr. RYAN. They are here to speak for themselves; they have come here to O. K. all that I have said.

Q. (By SAMUEL PARKER.) Do you think it is the best thing for the Territory of Hawaii, for the people living in the Territory, to have these lands turned over to the Federal Government?

Mr. RYAN. Certainly.

Mr. PARKER. Do you think if it be left to the officials it will answer the same purpose?

Mr. RYAN. No.

Mr. PARKER. Then it is the officials?

Mr. RYAN. No, the principle of the thing is wrong; the whole law is wrong; the whole foundation of the thing is wrong. It is open at every turn. The more able the official perhaps was, the more able he would be to find doors at which he could crawl out here and there. The official who is here is interested in finding all of the doors. He finds some of them, but he can not find all of them.

Mr. PARKER. But I want you to understand that I am in the same boat that you are.

Mr. RYAN. I have great sympathy with you.

Q. (By Mr. C. C. KENNEDY, of Hilo.) You stated that between 100 and 500 elevation that cane could not be grown profitably?

Mr. RYAN. Above 1,700 feet; and I do not pretend to say that it can not be grown higher. Cane can be grown, if you give it time to grow, clear up to three and four thousand feet, I suppose, but the cost of labor keeping it clean until it matures puts you in the hole.

THOMAS J. RYAN recalled.

Mr. RYAN. These are the lots, this large block, 150 acres.

Senator MITCHELL. On the map you now hold in your hand?

Mr. RYAN. Yes, sir.

Senator BURTON. This is a map of what?

Mr. RYAN. Map of the new Olaa tract on the island of Hawaii.

Senator BURTON. That your association undertook to take up as government homesteads?

Mr. RYAN. No. We undertook to take it up individually, everybody for himself, but afterwards when we found there was going to be trouble we had to associate ourselves together for common defense.

Senator BURTON. Well, it was the parties acting individually that afterwards formed the association.

Mr. RYAN. Yes; together with some others.

Senator BURTON. This map shows that part of the public domain, does it?

Mr. RYAN. Yes; it does. There were some others who did not join this association, nor help us along in our common defense, that also took up or claimed some lands, but they never seemed to be very sincere, and in fact some of those who did.

Senator MITCHELL. To what use could these lands, which you claim should be taken up by the homesteaders—settlers, be put to by the settlers?

Mr. RYAN. I think that these lands could be used for ordinary good

general farming, stock raising. A portion of it is very poor land, but some of it could be perhaps used for raising cane; but I can not say.

Senator MITCHELL. What else besides cane can you raise on it?

Mr. RYAN. After it is cleaned up it could probably be planted to any ordinary temperate zone crop, corn, potatoes—we do not raise any, but we used to raise them—horses, cattle, sheep, etc.

Senator MITCHELL. Sweet potatoes?

Mr. RYAN. Yes, sir; everything that is generally raised on a farm, if we had enough of it.

Senator BURTON. The list of names you send to us now wants to be of those that were dispossessed, like the witnesses you have introduced here, you understand?

Mr. RYAN. Yes, sir; but there are some that are not here that were dispossessed also.

Senator BURTON. But in your communication you will include those names?

Mr. RYAN. Yes, sir; I will.

Senator MITCHELL. Please state if the letter I now hand you is a letter from Commissioner Brown, late commissioner of public lands, to you.

Mr. RYAN. Yes, sir.

Senator MITCHELL. Will you please read it, so we will have a copy of it.

Mr. RYAN. Yes, sir (reads):

COMMISSIONER OF PUBLIC LANDS, TERRITORY OF HAWAII,
Honolulu, October 9, 1900.

T. J. RYAN, Esq.,
Olaa, Puna, Hawaii.

SIR: This office is informed upon reliable information that you are trespassing upon certain lots of public lands under the control and management of this office, namely, lots 211, 212, and 213, and also upon the quarry reservation between said lots 212 and 213 in the new Olaa section, Puna, Hawaii.

You are, therefore, notified and directed to vacate said lots and to remove any and all structures or belongings which you may have on said lots within thirty days from the date of this letter.

Respectfully, yours,

J. F. BROWN,
Commissioner of Public Lands.

Senator MITCHELL. State under what law you were occupying these lots.

Mr. RYAN. I don't know.

Senator MITCHELL. How long had you been occupying them?

Mr. RYAN. Three years.

Senator MITCHELL. You do not know under what claim of right?

Mr. RYAN. Nobody can tell.

Senator MITCHELL. Had you made any application to purchase them?

Mr. RYAN. I can not. No, because they gave notice in selling these, and excluded all persons from taking more than one lot, which is 50 acres, and the right of purchase lease under which they were selling them.

Senator MITCHELL. Had the commissioner the right to do that under the law?

Mr. RYAN. No, certainly; and he is to offer it in 200-acre batches, but he offered it in 50-acre lots, and I am not satisfied that anyone could take more than 50 acres.

Senator BURTON. You want to make a further statement, Mr. Ryan?

Mr. RYAN. It is claimed by some that these lands are especially

rich, but there is a large amount of fertilizer used on these big fields and that it is so rich that a poor man can raise too much on a little piece of land. Now, we claim that it is absolutely untrue and false—mostly it is poor and it has to be fertilized, and a man can not raise anything at all until he does fertilize.

Senator BURTON. Then you favor a homestead of 160 acres?

Mr. RYAN. On the upper lands; on the lowlands they could be divided into 40-acre lots, because they could raise cane, and have these lands below in the cane fields near us divided by lottery, and the high upper lands let the settlers go ahead, and let them get to work, and we want to start the surveys and get regular surveys.

O. T. SHIPMAN sworn:

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. SHIPMAN. O. T. Shipman; 45; residence, Volcanoe; rancher.

Senator MITCHELL. How long have you resided on the islands?

Mr. SHIPMAN. I was born here.

Senator MITCHELL. Remained here all your life?

Mr. SHIPMAN. I was away at one time eight years.

Senator MITCHELL. What matter do you wish to bring to the attention of the committee?

Mr. SHIPMAN. Well, I bring a matter which is principally what Mr. Ryan has just given. I only want to call your attention to one or two exhibits that I have attached to it.

Senator MITCHELL. What is it?

Mr. SHIPMAN. This whole paper.

Senator MITCHELL. You desire to have this memorial made a part of the record, do you? Now you wish to call attention to some exhibits?

Mr. SHIPMAN. There is only four, I think. The first exhibit is the result of my efforts in cane-planting business, and it shows exactly, without any cross work, what there is in it. It is all explained here.

Senator FOSTER. That is your actual experience?

Mr. SHIPMAN. Yes, sir.

Senator MITCHELL. That is Exhibit A attached to your memorial?

Mr. SHIPMAN. Yes, sir; this is for the returns for which vouchers have just been made within the last month.

Senator MITCHELL. Now, what next?

Mr. SHIPMAN. Exhibit B is simply a blank contract which the sugar company offers to planters.

Senator MITCHELL. A form used?

Mr. SHIPMAN. A form used, and as far as I know it is the best form given by any plantation on the Hawaiian Islands.

Senator MITCHELL. That is Exhibit B?

Mr. SHIPMAN. Exhibit B, yes. This Exhibit C has reference to the district in which I was born and in which I live, and there is a map of the district attached, which is a part of that exhibit.

Senator MITCHELL. Does that relate to the cane industry?

Mr. SHIPMAN. It relates to the area of public lands in the district, the yellow lands are crown lands, and the green are Government lands, but they are all public lands now. This represents about 240,000 acres; the whole area of this district is approximately 500,000 acres. Now, all of this district is occupied by two plantations, and all of this land is under lease to these two plantations. I have given a list of the leases and when they expire.

Senator MITCHELL. And the names of the plantations?

Mr. SHIPMAN. The names, and when they expire, and the area; all of this is given.

Senator MITCHELL. Any other exhibits?

Mr. SHIPMAN. The last exhibit is Exhibit D, and that is what is called the county act.

Senator MITCHELL. That passed both houses and was vetoed by the governor?

Mr. SHIPMAN. Yes, sir.

Senator MITCHELL. Was it a pocket veto or a veto by a message?

Mr. SHIPMAN. I believe he only had five days before the close of the session and did not have time to examine it thoroughly.

Senator MITCHELL. What do you say as to the importance of the proposed measure?

Mr. SHIPMAN. I think just what we want; it is a start in the right direction; it may not be exactly right, but as I understand from the parties who framed that, that it was modeled after the acts as they exist in the States, taken here and there.

Senator MITCHELL. Anything else you wish to say, Mr. Shipman?

Mr. SHIPMAN. No; that is all.

Senator BURTON. You have expressed yourself in your statement here and made a suggestion of remedies that you think necessary.

Mr. SHIPMAN. I would just like to call your attention one moment to that map of this district in which I was born, just showing the area which is not public lands; there is this piece owned by Colonel Morris, and 185,000 acres, about, of this land owned by the Bishop estate; all the rest of these lands are the property, or, if not exactly owned, are under the control, of these two plantations, so that there is no chance for any outside population.

Mr. LOEBENSTEIN. Have you an idea of a fair value per acre of the government lands fit for cane planting in the district of Kahuku contiguous or adjacent or upon the lands owned and cultivated by the Hawaiian Commercial Company? What would be a fair rental value per acre, from your knowledge of the locality, the yield in cane and in sugar per acre?

Mr. SHIPMAN. Well, I could not tell you what would be a fair valuation.

Mr. LOEBENSTEIN. Would \$2.50 per acre be a low rental?

Mr. SHIPMAN. I think that would be very low.

Mr. LOEBENSTEIN. Would you consider \$5 as being more equitable?

Mr. SHIPMAN. A little; it should not be less than that.

Mr. LOEBENSTEIN. Then, in the event of the bureau of public lands ratifying an application for a lease of a large tract of public land, eminently suitable for cane, at \$2.50 per acre, you would consider that as great favoritism?

Mr. SHIPMAN. Well, I do not know what you would call it; I do not think it would be a fair valuation.

Mr. LOEBENSTEIN. It would not be just to the public interests?

Mr. SHIPMAN. No.

Mr. LOEBENSTEIN. Is it not a fact, Mr. Shipman, that the same favoritism has been shown in the allotment of public lands of the Olaa Reservation?

Mr. SHIPMAN. Well, there have been some funny things done here; I do not know whether it was favoritism or what it is. I know I have tried to acquire government land here according to the law, as I understand the laws of 1895, and have never been able to acquire any land, while others have, and I never have understood why it was so

Mr. LOEBENSTEIN. Have you been the victim of a long-deferred time succeeding the payment of any money for the purchase price of land, before receiving your land patent?

Mr. SHIPMAN. I have never taken out any.

Mr. LOEBENSTEIN. Have you heard of others?

Mr. SHIPMAN. Oh, yes; I have heard of them.

Mr. LOEBENSTEIN. The instances have occurred?

Mr. SHIPMAN. Yes, sir.

Senator FOSTER. In your exhibit there where you state you raised your cane on your plantation—what elevation?

Mr. SHIPMAN. A little over 1,600 feet.

Senator FOSTER. Do you regard that as too much of an elevation for successful cane raising?

Mr. SHIPMAN. No, it takes longer, I should say at least two years, possibly; if you have a favorable year, that you might grow cane in twenty to twenty-two months, but at my elevation about two years is the time allowed.

HENRY A. GERLACH, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. GERLACH. Henry A. Gerlach; a citizen of the United States born in the State of Ohio; age, 35; residence, Olaa; occupation, blacksmith.

Senator MITCHELL. How long have you resided on this island?

Mr. GERLACH. Three years and three months.

Mr. RYAN. Mr. Gerlach, about the time you came to the Hawaiian Islands did you have in view the purpose of obtaining some public lands if it was possible to get them?

Mr. GERLACH. I did, sir.

Mr. RYAN. You may state briefly about what occurred in the way of general talk in reference to the disposition of public lands at the time you came.

Mr. GERLACH. Well, it was made known to me that there were inducements for any American settler to come here on the public lands and take it by right of purchase, lease, etc. In the meantime there was an organization started, called the American Settlers' Association, which I joined, and went into the same opinion that they had, that they could take up these lands under the American land laws.

Mr. RYAN. Or such leases as might be made.

Mr. GERLACH. Or such leases as may be made and extended to these lands; I went in and took up a claim.

Mr. RYAN. And after you had occupied that claim for some time did you receive any communication or notice from the local commissioner of public lands of Hawaii?

Mr. GERLACH. Yes, sir.

Senator FOSTER. How did you know that it was vacant when you went on the land?

Mr. GERLACH. There was no sign that any person had ever inhabited that land. I was the first one on this claim that I took.

Mr. RYAN. At any rate, in reference to that notice, what did you do?

Mr. GERLACH. I continued until the second notice.

Mr. RYAN. He notified you the second time?

Mr. GERLACH. Yes, sir.

Mr. RYAN. And at that time?

Mr. GERLACH. I could not see that I could keep up and expend any

more money on it, because I was a poor man and the chances were against me. I would have to fight the Federal Government, and I had no money to do it with.

Senator BURTON. Who does this land belong to now?

Mr. GERLACH. The government offered it for sale; sold it at auction sale.

Senator BURTON. Who bought it?

Mr. GERLACH. One party by the name of Lyon took one lot. At that time there were three lots, 50-acre lots, and were sold to the highest bidder at an auction.

EDWARD A. HORAN, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. HORAN. Edward A. Horan; age, 40; residence, Olaa; occupation, overseer.

Senator MITCHELL. Overseer on a cane plantation?

Mr. HORAN. Yes, sir.

Senator MITCHELL. How long have you lived in this island?

Mr. HORAN. About ten years.

Senator MITCHELL. How long have you been an overseer?

Mr. HORAN. Practically all the time.

Senator MITCHELL. What plantation were you overseer of?

Mr. HORAN. Olaa.

Senator MITCHELL. How many acres are in cultivation in cane in that?

Mr. HORAN. That I do not know; I really do not know.

Senator MITCHELL. What is the grand total?

Mr. HORAN. About 20,000 acres.

Senator MITCHELL. In cultivation?

Mr. HORAN. All together.

Senator MITCHELL. Do you know the total in cultivation?

Mr. HORAN. Probably about 7,000 acres.

Senator MITCHELL. What is the output?

Mr. HORAN. They just took off 20,000 tons of sugar.

Senator MITCHELL. Can you tell what it cost to produce a ton of sugar on this reservation?

Mr. HORAN. No.

Senator MITCHELL. Have you a copy of their last report?

Mr. HORAN. No, sir.

Senator MITCHELL. Can you get one and forward it?

Mr. HORAN. I might be able to get one.

Mr. RYAN. Mr. Horan, did you get any notice from the local commissioner to vacate this land?

Mr. HORAN. I did.

Mr. RYAN. Did you receive more than one notice?

Mr. HORAN. Yes, sir; I got two.

Senator BURTON. Were you dispossessed of the land?

Mr. HORAN. Yes, sir.

Senator BURTON. Was your land sold at auction?

Mr. HORAN. Yes, sir.

Senator MITCHELL. After this decision of the attorney-general?

Mr. HORAN. Yes, sir; afterwards.

Sheriff L. A. ANDREWS. Before taking up this land as stated, how long did you reside in Olaa?

Mr. HORAN. About eight years, I presume.

Mr. ANDREWS. But you had taken up other government land prior to that?

Mr. HORAN. This was not government land; it was, but I took a leasehold from the Queen; that was before she was deposed.

Mr. ANDREWS. You had a lease of crown lands?

Mr. HORAN. I had a lease, and then that more than the lands I could get title to it.

Mr. ANDREWS. How much land did you get title to?

Mr. HORAN. Fifty acres; and I was entitled to 150 more that I did not get.

Mr. ANDREWS. And what became of that 50 that you took up?

Mr. HORAN. Hackfeld has it now; he took it under a mortgage.

Mr. RYAN. What did you attempt to do on this 50 acres?

Mr. HORAN. Raise coffee, and made a failure of it.

FRED R. GIDDINGS, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. GIDDINGS. Fred R. Giddings; age, 26; residence, Mountain View; occupation, head overseer on sugar plantation.

Senator MITCHELL. How long have you lived here?

Mr. GIDDINGS. Three years since March.

Mr. RYAN. Did you settle on some public lands that were decided to be United States public lands?

Mr. GIDDINGS. I did.

Mr. RYAN. Did you make any improvements?

Mr. GIDDINGS. I did.

Mr. RYAN. After making these improvements, did you build a house?

Mr. GIDDINGS. I did.

Mr. RYAN. And live in it?

Mr. GIDDINGS. I did.

Mr. RYAN. After you did this, did you receive any notice from the commissioner of public lands of Hawaii to vacate?

Mr. GIDDINGS. I did.

Mr. RYAN. Can you state whether there were any threats made in that notice of legal proceedings against you?

Mr. GIDDINGS. I do not remember exactly the wording of it at present. It notified me to vacate, and said that they understood I was living on certain lots, giving the numbers, in the Olaa Reservation, and notified me to vacate. I will further state that the notice was served upon me in a rather peculiar manner. It was placed under my plate in a restaurant.

Mr. RYAN. Well, you got the notice, did you—a second notice?

Mr. GIDDINGS. I do not remember now as to the second notice.

Mr. RYAN. At any rate, what did you do in reference to this notice—after the second one?

Mr. GIDDINGS. I paid no attention to them.

Senator BURTON. Did you lose your land?

Mr. GIDDINGS. I threw it up—could not afford to carry it under the present conditions.

Mr. RYAN. Have you taken any other land since?

Mr. GIDDINGS. No, sir.

Mr. RYAN. Was it sold at auction?

Mr. GIDDINGS. Yes, sir.

Mr. RYAN. And you lost your improvements?

Mr. GIDDINGS. Yes, sir.

Mr. RYAN. Are you an American citizen?

Mr. GIDDINGS. I am; born in Vermont.

Senator FOSTER. You say you received your notice under your plate at your boarding house. How far was that from your cabin?

Mr. GIDDINGS. At that time I was at Mountain View—about 3 miles.

Senator FOSTER. Were you occupying your cabin?

Mr. GIDDINGS. I had my bed and my trunk and everything there, and at the time was working up here near Mountain View.

Senator BURTON. Do you belong to this settlement association?

Mr. GIDDINGS. Yes, sir.

Senator BURTON. How many different American citizens have been treated as you have been here by the land department belonging to this association—about how many?

Mr. GIDDINGS. From 20 to 50; I do not remember the number belonging to the association.

Mr. RYAN. Was there any members of your family that came along with you here to Hawaii?

Mr. GIDDINGS. Yes, sir; 3.

Mr. RYAN. Who was it?

Mr. GIDDINGS. Carl J. Giddings, Henry M. Giddings, and George W. Giddings.

Mr. RYAN. When you and your brothers came what was your intention as to lands?

Mr. GIDDINGS. Our intention was to take up Government land with the idea of a home in Hawaii.

Senator BURTON. Do you think that this land, like that you took up, is all right for Government homesteads for white people?

Mr. GIDDINGS. I do; yes, sir.

Senator BURTON. Or native Hawaiians?

Mr. GIDDINGS. Yes, sir.

Senator MITCHELL. How many acres did you take up?

Mr. GIDDINGS. One hundred and sixty acres. It was not taken up under this Government; went in first to purchase, as I spoke of before.

GEO. KAZTALEWYCZ, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

A. George Kaztalewycz; age, 46; residence, Oloo; I work on a plantation, and I am working on my farm.

Senator MITCHELL. How long have you lived here?

A. Nine months.

Senator MITCHELL. Where were you born?

A. I was born in Russia.

Senator MITCHELL. Are you an American citizen?

A. American citizen; I was first living in San Francisco.

Mr. RYAN. Did you find some public land that had some little improvements made some time, apparently a long time in the past?

A. Yes, sir.

Mr. RYAN. Did you find anybody living there on that claim?

A. No, sir.

Mr. RYAN. Did you conclude that it had been abandoned?

A. Been abandoned.

Mr. RYAN. Did you make some inquiry?

A. Yes, sir.

Mr. RYAN. Did you find out some information?

A. I found out everything.

Mr. RYAN. Was that information to the effect that the party who had formerly owned it had gone away a long time; was this information that you had gathered up around the country that this man had abandoned?

- A. He abandoned a long time.

Mr. RYAN. What did you do?

A. I took up this land in my possession and I cleared 3 acres, building roads, building stables, and I lived there over three months, working on these lands.

Mr. RYAN. After that what did you do?

A. He send affidavits to land commissioner at Honolulu, and I send a letter also to local commissioner.

Mr. RYAN. Who acted for you, to represent you along with getting this road?

A. Dr. Russell, and four witnesses signed, best prominent citizens, that the land was abandoned; I built road from my house to main road.

Mr. RYAN. Is this a copy of the affidavit?

A. Yes; that is affidavit.

Mr. RYAN. Well, you asked for a right to file upon this land?

A. Yes, sir.

Mr. RYAN. Did you offer to pay for the land?

A. I offered to; I wanted to know all about it.

Senator FOSTER. How many bananas did you gather while on the ranch?

A. About twenty pieces bananas, and one orange tree I planted there, couple figs, and so forth.

Senator FOSTER. Did you gather any fruit while you were there?

A. I can no get fruit; I just plant them last December, January, and February.

Senator FOSTER. You have been here nine months?

A. Yes; I have been over there every day, doing work, building stable and house.

Mr. RYAN (directing question to Dr. Nicholas Russell, previously sworn). Did you do anything for this gentleman in reference to some land he had found and claimed to be abandoned?

Mr. RUSSELL. I advised him to find three or four local farmers who are thoroughly acquainted with the dates of the arrival of the former tenant and the date when he left the country, and the date of his contract with the government, etc., all these particulars, and to make them swear that this former settler did not comply with the conditions of his contract, as related by the land act of 1895; that on the ground of these affidavits that Mr. Kazralewycz should make application to the commissioner of public lands, allowing him this contract of the government to be passed to his name.

Senator MITCHELL. How many men signed this affidavit?

Mr. RUSSELL. Four men.

Senator MITCHELL. Who were they?

Mr. RUSSELL. They have been all regular old settlers; Mr. Herman Edart, Aug. Iten, Harry Junkin, and myself. I advised him to take such course, because I knew that is the regular course of proceeding in the United States to contest a claim.

Mr. RYAN. Is this letter from Mr. E. S. Boyd, public lands commissioner?

Mr. RUSSELL. Yes, sir.

Mr. RYAN. Do you know whether he ever granted any hearing?

Mr. RUSSELL. No; he never did.

Senator MITCHELL. Just read the letter.

Mr. RUSSELL (reading):

COMMISSIONER OF PUBLIC LANDS, TERRITORY OF HAWAII,
Honolulu, September 2, 1902.

Dr. NICHOLAS RUSSELL,
Mountain View, Oloa, Hawaii.

DEAR SIR: In relation to the application of Mr. George Kaztalewycz for lots 78 and 81, Oloa, under right-of-purchase lease to Aug. Kraus, I beg to say that I inclose for your consideration two communications of Aug. Kraus to the land office in Hilo, and also a copy of Mr. E. D. Baldwin's report on the same, and after mature consideration the conclusion as reached by Mr. Baldwin has my approval.

Yours, respectfully,

E. D. BOYD, *Commissioner.*

J. L. SOUZA, sworn:

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. SOUZA. My name is J. L. Souza; age, 36; residence, New Oloa tract; occupation, laborer, now as farmer.

Senator MITCHELL. Where were you born?

Mr. SOUZA. Born in Sumatra.

Senator MITCHELL. How long have you been in the islands?

Mr. SOUZA. Running about nineteen years.

Senator MITCHELL. Are you an American citizen?

Mr. SOUZA. Yes, sir.

Senator MITCHELL. Have you heard the statements made here to-day by these gentlemen on these various subjects?

Mr. SOUZA. Yes, sir.

Senator MITCHELL. Do you agree with them in all respects?

Mr. SOUZA. Yes, sir.

Mr. RYAN. Have you worked upon plantations in Hawaii?

Mr. SOUZA. Yes, sir.

Mr. RYAN. Down by the coast and at other places?

Mr. SOUZA. Yes; at every place around these islands.

Mr. RYAN. Did you find that the climate was so hot that you could not work very well?

Mr. SOUZA. No; I could always carry my work through all right.

Senator MITCHELL. How much did you pay for your land at auction?

Mr. SOUZA. I should pay for the land \$1,100 for 49½ acres.

Senator MITCHELL. How much an acre?

Mr. SOUZA. About \$22 and some.

Senator FOSTER. Is that your milk ranch up the hill here?

Mr. SOUZA. No.

Mr. RYAN. What rate of interest have you to pay?

Mr. SOUZA. Six per cent interest on the auction sale. I pay six months in advance.

Mr. RYAN. Are you acquainted with what it will cost to clear that land?

Mr. SOUZA. Nothing less than \$100 an acre.

Mr. RYAN. How much have you cleared now?

Mr. SOUZA. Two acres.

Mr. RYAN. Are you a married man?

Mr. SOUZA. Yes, sir.

Mr. RYAN. How many in your family?

Mr. SOUZA. Eight.

Mr. RYAN. Do you raise enough on that land to support your family?

Mr. SOUZA. No; I do not raise enough to support one of my family.

Mr. RYAN. How do you find the soil?

Mr. SOUZA. Very poor.

Mr. RYAN. If you have to raise anything there, what will you have to do with it?

Mr. SOUZA. Fertilize it.

Senator MITCHELL. In purchasing that land, were there others bid for it?

Mr. SOUZA. Others bid for it; bid it up to that price.

Senator MITCHELL. Was there any appraisement fixed by the government on the land above which it should go?

Mr. SOUZA. A price is fixed at \$12, not lower than that; from \$12 up.

Sheriff L. A. ANDREWS. Is your land near the government road?

Mr. SOUZA. Yes.

Mr. ANDREWS. If you had that amount of land back from the government road, had you got it for \$1 per acre, could you make a living off of it if no road was built to it?

Mr. SOUZA. I believe I could make a living on it better than I can now by paying 6 per cent interest on it. I could make a better living than what I am doing now; but I am sure I could do better than I am doing now if I bought for \$1 per acre. I have little money.

Mr. ANDREWS. But if your land was away back where there was no road you could make a living?

Mr. SOUZA. Yes, sir; because I could pack my things. Nothing to sell yet; the road is not much traveled; I have no road yet.

ANDREW NELSON, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. NELSON. Andrew Nelson; age, 56; residence, Olaa district. I am a rancher.

Senator MITCHELL. Where were you born?

Mr. NELSON. In Norway.

Senator MITCHELL. Are you an American citizen?

Mr. NELSON. Yes, sir.

Senator MITCHELL. By naturalization?

Mr. NELSON. Yes, sir.

Senator MITCHELL. How long have you lived here in these islands?

Mr. NELSON. About twenty-two years.

Senator MITCHELL. Have you heard the statements made under oath by these gentlemen to-day?

Mr. NELSON. Yes, sir.

Senator MITCHELL. Are you in accord with their views?

Mr. NELSON. Yes, sir.

Senator MITCHELL. They have stated the situation as you understand it?

Mr. NELSON. Yes, sir.

Mr. RYAN. Among other statements which I made here, Mr. Nelson, is that the local government appraised the lands along the road in the Olaa tract at a very high figure, something in the neighborhood of \$10 or \$12 per acre, while other lands back off of the road was appraised at \$1 and \$2 per acre. I made such general statement in some of my papers. Now, is it a fact that you settlers, when you went in there to bid for these lands or offered to pay for them, did you have to pay this high appraised price of \$10 or \$12 per acre?

Mr. NELSON. Yes, sir.

Mr. RYAN. How much did you pay for your land?

Mr. NELSON. Nine dollars per acre.

Mr. RYAN. Was it considered rather poor land or was it extraordinary good land?

Mr. NELSON. One-half of it was very good land and one-half of it was not.

Senator MITCHELL. That was government land, then, that you paid \$9 an acre for?

Mr. NELSON. Yes, sir.

Senator MITCHELL. Had there been any improvements made on it before you got it?

Mr. NELSON. No.

Senator MITCHELL. Was it wild land?

Mr. NELSON. Yes, sir.

Senator MITCHELL. What was it covered with?

Mr. NELSON. Ohia trees. Nobody had been there before to clear it.

Senator MITCHELL. What will it produce now?

Mr. NELSON. I try to make my living on it, but I fear I can not keep it because the interest is too high. I am a poor man and I have a big family.

Senator MITCHELL. Do you pay part of the money down and then interest on the balance?

Mr. NELSON. No; I paid for every section interest.

Senator MITCHELL. To whom, the government?

Mr. NELSON. To Mr. Baldwin.

Senator MITCHELL. That is 8 per cent on all money not paid down, is it?

Mr. NELSON. Eight per cent.

Mr. RYAN. Have you been working around plantations nearly all the time?

Mr. NELSON. Not all the time; I have been running a milk ranch.

Mr. RYAN. Well, you worked some on plantations?

Mr. NELSON. Yes, sir.

Mr. RYAN. Were you ever shipped, as they call it, under contract to the plantations?

Mr. NELSON. Yes, sir.

Mr. RYAN. Where at?

Mr. NELSON. I was shipped to Haiuakua Poka, Maui.

Mr. RYAN. Did you ever find any difficulty in doing your work from the climate being so hot, or any of those kind of things?

Mr. NELSON. No.

Mr. RYAN. You could do your work?

Mr. NELSON. Oh, yes.

Mr. RYAN. You are now how old?

Mr. NELSON. Fifty-six.

Senator FOSTER. You say you live on a milk ranch?

Mr. NELSON. Yes, sir; I have been working on a milk ranch.

Senator FOSTER. Is it your cows?

Mr. NELSON. No.

Senator FOSTER. You are working for other parties?

Mr. NELSON. Yes.

Senator FOSTER. Is your claim good grass land, good for cows?

Mr. NELSON. ———

Senator FOSTER. What is it good for?

Mr. NELSON. It is good for something if I could get it cleared.

Senator FOSTER. What will the land produce?

Mr. NELSON. We try to get anything on it to make a living out of it—potatoes, cabbage, and corn.

Senator FOSTER. What elevation is this land of yours; how high above the sea?

Mr. NELSON. I don't know; about 3,000 feet.

Senator MITCHELL. How far from a plantation is this land of yours?

Mr. NELSON. I think about 6 miles.

Senator MITCHELL. How far from any other improved land, other ranch?

Mr. NELSON. About 7 miles.

Senator MITCHELL. How far is that from your claim, your milk ranch?

Mr. NELSON. That is in Honolulu; not run here.

Senator MITCHELL. That is before you took this claim?

Mr. NELSON. Yes, sir.

LORRIN A. ANDREWS, sworn.

Mr. RYAN. Did you buy some land at this same sale that Mr. Souza did?

Mr. ANDREWS. I did not.

Mr. RYAN. That is all.

Mr. ANDREWS. I bid on land for another man that asked me to bid for him, and it was sold to him.

Mr. RYAN. The man was not present himself?

Mr. ANDREWS. He was not present; he asked me to bid on it.

Mr. RYAN. Do you know whether that man came on and did anything?

Mr. ANDREWS. He has not yet; he told me last week that he had arranged to send up a man to work on it.

Senator BURTON. When did you buy that?

Mr. ANDREWS. At the first opening of this land.

Senator BURTON. When was it—the year?

Mr. ANDREWS. I don't remember. It was about one and a half years ago, if I recollect.

Senator BURTON. He has never gone on the land?

Mr. ANDREWS. No, sir.

Mr. LOEBENSTEIN. Do you know that a personal application and personal bid is required under the law, or, in other words, do you not know it to be a fact that one of the conditions of application for purchase of land, either at public or private sale, is that the applicant shall make that application in person?

Mr. ANDREWS. I do not know anything of the kind.

Mr. LOEBENSTEIN. Your application and your bid was received?

Mr. ANDREWS. I made no application. The land was put up at public sale, and I bid on it; when it was knocked down the land agent who was selling asked to put down my name, and I gave him the name of the man who requested me to bid.

Mr. LOEBENSTEIN. The land agent was acquainted with you and your name?

Mr. ANDREWS. He was.

Mr. LOEBENSTEIN. And he accepted that name from you?

Mr. ANDREWS. Yes, sir; and the man paid him the money.

JOHN U. SMITH, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. SMITH. John U. Smith; residence, Hilo; occupation, attorney at law; age, 34.

Senator MITCHELL. Mr. Smith, how long have you resided in Hilo?

Mr. SMITH. Four years.

Mr. RYAN. Did you attend that sale at Hilo?

Mr. SMITH. Yes, sir.

Mr. RYAN. Did you bid on any land?

Mr. SMITH. Yes, sir.

Mr. RYAN. For yourself?

Mr. SMITH. Yes sir; for my wife; yes.

Mr. RYAN. Did you get it?

Mr. SMITH. I got it.

Mr. RYAN. Did you pay for it?

Mr. SMITH. No, sir; I paid \$54 interest.

Mr. RYAN. Did you go on and improve it?

Mr. SMITH. No.

Mr. RYAN. Done nothing further with it?

Mr. SMITH. No; I got cold feet on the proposition.

G. W. PATY, sworn:

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. PATY. G. W. Paty; age, 47; occupation, planter; residence, Olaa.

Senator MITCHELL. You want to make a statement?

Mr. PATY. I want to bring before your commission the matter of an experiment station. You have been asking what we could grow on these lands, and we ask you as a commissioner to help us to find out what we can grow, and the only way we can find out is to have an experiment station and to ask for and secure aid from the United States in that direction.

Senator MITCHELL. Then you would favor that the public lands here should be placed in the hands of the Federal Government, do you?

Mr. PATY. I have not studied up that question and am not ready to give an opinion on that subject, but my idea and suggestion is that it would be a great help to us if the Federal Government could establish an experiment station, to experiment with what could be grown and see what we could produce here. I have been trying myself for three or four years, and have planted quite a number of different fruits. I am planting cane at the present time for the Olaa Sugar Company.

Senator FOSTER. Then you have not fully determined what will grow?

Mr. PATY. My land is situated down at an elevation of 640 feet. Cane is growing there, but we do not all want to be cane planters.

Mr. HORNER. Have you ever tried corn, potatoes, and vegetables?

Mr. PATY. I have planted corn to a very limited extent, and I have raised one or two very good crops, but it is very uncertain. Another year you may plant it and it will be a failure, and the same way with potatoes. I had one or two very good crops, but the blight has killed them lately, and we don't raise many now.

AUG. ITEN, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. ITEN. Aug. Iten; age, 35; residence, Olaa; occupation, planter and farmer.

Mr. RYAN. You may relate to the commission your experience about farming, how long you have been farming, and how much land you have got, etc., and what you have to pay for this, that, and the other, and how you are getting along.

Mr. ITEN. I find that farming in this country is a very poor occupation. The harder a man works the poorer he gets, unless he has a great deal of land, say 100 or 150 acres, where he can raise some stock. I have a coffee plantation, and I made a complete failure, and now I am planting sugar, and I do not know how I am going to come out on account of everything is very high here and living expensive. You have to manure very heavily. Potatoes you could not raise. Corn I tried to raise last year, and I failed and did not get the seed back. Sweet potatoes are doing very well here, but otherwise it is pretty hard living in this country, unless conditions can be altered a little. Whatever we buy is bought at their stores here, and they take big profits out of us.

Senator FOSTER. How many bushels of sweet potatoes do you raise?

Mr. ITEN. I could not say.

Senator FOSTER. What do you get for them in the market?

Mr. ITEN. About \$1 a bag.

Senator FOSTER. How many pounds to the bag?

Mr. ITEN. About 80 pounds.

Mr. RYAN. How do you find the soil, rich or poor?

Mr. ITEN. Extremely poor.

Mr. RYAN. How long have you worked on a farm in this neighborhood?

Mr. ITEN. For eight years.

Mr. RYAN. Do you find anything the matter with the climate that affects a white man so he could not work?

Mr. ITEN. None whatever, if he wants to.

Mr. RYAN. Do you work in the fields every day at all kinds of work?

Mr. ITEN. Yes, sir; I do all my own work, from twelve to thirteen hours a day.

Mr. RYAN. Where were you born?

Mr. ITEN. Switzerland.

HONOLULU, *September 22, 1902.*

F. W. MACFARLANE, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. MACFARLANE. F. W. Macfarlane; merchant; 48; Honolulu.

Senator MITCHELL. How long have you resided in the islands?

Mr. MACFARLANE. All my life, sir.

Senator MITCHELL. What public positions have you held in the islands?

Mr. MACFARLANE. This, I think, is the only one.

Senator MITCHELL. What do you refer to?

Mr. MACFARLANE. Chairman of the fire-claims commission.

Senator MITCHELL. Have you been chairman of the fire-claims commission from the beginning?

Mr. MACFARLANE. I have, sir, and still am.

Senator MITCHELL. Have you, Mr. Macfarlane, prepared any paper for our committee bearing upon the question of these claims?

Mr. MACFARLANE. I have.

Senator MITCHELL. Have you it with you?

Mr. MACFARLANE. I have, sir.

Senator MITCHELL. You may read it.

Mr. MACFARLANE. This, Mr. Senator, is the report of the fire-claims commission to Governor Dole, and, with the governor's permission, I will read it. [Witness reads report.]

Senator MITCHELL. Was this report you have read prepared since the investigation at Washington?

Mr. MACFARLANE. Yes, sir.

Senator MITCHELL. How long ago was it prepared?

Mr. MACFARLANE. I think about two months ago.

Senator MITCHELL. What was the date of the letter from Magoon & Peters you read?

Mr. MACFARLANE. July 21, 1902.

Senator MITCHELL. Was suit commenced?

Mr. MACFARLANE. Yes, sir; but the commission won the suit on the ground that the claimants were not compelled under the act to take the certificate of award. The act did not provide that the commission shall issue certificates of award, but we thought it best to do so.

Senator MITCHELL. The court held you had a right to attach that condition?

Mr. MACFARLANE. Yes; if they wanted their claim they ought to pay for it.

Senator MITCHELL. Has that gone to the supreme court, or can it go there under the law?

Mr. MACFARLANE. I do not know. There has also now been a suit filed against the commission to refund this money to the claimants. That is because they demand now a certificate of award without the payment of the fee, and were it not for that suit we then would be able with this money on deposit in the bank to liquidate all the outstanding expenses of this commission. It appears that we wanted to—in making up the schedule for charges for these certificates of award we did not know what incidental expenses might come up, so that left a balance of a few hundred dollars on deposit, and of course all we could do with it would be to pay it into the treasury.

Senator MITCHELL. According to these papers you have passed upon all these claims?

Mr. MACFARLANE. Yes, sir; and made an award in every case.

Senator MITCHELL. Did you take up each case specifically, as provided by your by-laws?

Mr. MACFARLANE. Every one. The manner of conducting the court was that the claimant was to be before the commission—we had all the officers, as I read in the report. The claimant was first sworn and identified. He presented his claim and he was interrogated on many of the items in the claim. The original claims were filed with the commission. An investigation of these claims will show in the schedule a modification of some kind on the claim—the figures have been changed; that the extension and footings have been changed. In many instances the claimant had more than he claimed for, but the majority were the other way. Every claim was read and adjudicated after its reading and on its own merits.

Senator MITCHELL. You called witnesses?

Mr. MACFARLANE. Yes, sir; all witnesses were called.

Senator MITCHELL. Now, Mr. Macfarlane, can you bring forward your books here and exhibit to the committee one or two cases, showing the modus operandi, what time the claim was filed, and until the time the award was made, and then we will ask you whether that is the way that each of the claims were passed upon?

Mr. MACFARLANE. I can.

Senator MITCHELL. Was there a board of appraisers appointed by the board of health for the purpose of appraising this property that was destroyed?

Mr. MACFARLANE. There was, sir.

Senator MITCHELL. Who constituted that board of appraisers?

Mr. MACFARLANE. C. B. Ripley, John Ouderkirk, and F. J. Wilhelm.

Senator MITCHELL. They made an appraisalment of it?

Mr. MACFARLANE. They did.

Senator MITCHELL. Is there a copy of their report on file with the committee at Washington?

Mr. MACFARLANE. I think there is, Senator. We had a copy made and sent on.

Senator MITCHELL. Was there any supplemental report made by this board of appraisers?

Mr. MACFARLANE. There was.

Senator MITCHELL. What did that report include?

Mr. MACFARLANE. Included buildings, etc., of the large fire that were not included in the first report.

Senator MITCHELL. Has a copy of that supplemental report been forwarded to the committee at Washington?

Mr. MACFARLANE. I am not sure. Mr. Pratt is here and probably can tell you.

Senator MITCHELL. Now, Mr. Macfarlane, we are ready to go on and look into one case of each nationality and see how you conducted it. [Witness produces a number of claims.] Are these cases numbered, Mr. Macfarlane?

Mr. MACFARLANE. Every claim is numbered.

Senator MITCHELL. Will you allow me, therefore, to select the case?

Mr. MACFARLANE. Yes, sir.

Senator MITCHELL. You give us case 10 of one nationality.

Mr. MACFARLANE. All right, here is one [producing claim].

Senator MITCHELL. What nationality is that?

Mr. MACFARLANE. Chinaman, named Choy Chin, No. 10, filed May 27, 1901.

Senator MITCHELL. Are these nationalities numbered respectively, or does it run right through from one to six thousand?

Mr. MACFARLANE. The numbers follow right through consecutively without regard to nationality.

Senator MITCHELL. We will hear just how you conducted the examination and how you arrived at the conclusion, and what the conclusion is in that case.

Mr. MACFARLANE. His claim was presented by Attorney F. M. Brooks. The claim was for \$103.60.

Senator MITCHELL. For what?

Mr. MACFARLANE. For personal effects.

Senator MITCHELL. Now, when that was presented, what did you do looking to an examination?

Mr. MACFARLANE. The claim was called up—the claimant, I mean. He had to be identified, and is sworn, identified, and then he was interrogated on any items that might appear in the claim. His residence—always in the interrogations—and occupation was asked.

Senator MITCHELL. After you got through with him what did you do?

Mr. MACFARLANE. We dismissed him and went on with the next claim.

Senator MITCHELL. Did you hear any other evidence besides his own testimony?

Mr. MACFARLANE. In that particular case I do not know whether we did or not, because I could not. It is all here, Mr. Senator, in the account books, but I could not refer to it here, unless I turned over and went all through where it was heard.

Senator MITCHELL. What was the amount of your award? The amount claimed was \$103.60.

Mr. MACFARLANE. Seventy-one dollars and eighty cents.

Senator MITCHELL. How did you arrive at the difference; how did you come to cut the claim down?

Mr. MACFARLANE. The man's occupation—for instance, in taking these personal-effect claims up of Chinese, we asked their occupation, then how much he was getting a month—for instance, he was a Chinese laborer; he was getting \$18 a month; how long was he in the country. That would determine to a large extent with the commission. Then another question was the age of the goods; what he paid for them—whether it was in yen in a Japanese case or in dollars in a Chinese case; whether it was Mexican or whether it was gold; whether it was bought in this country or whether in Japan.

Senator MITCHELL. In this particular case, Mr. Macfarlane, you were compelled to rely mainly on his testimony, were you?

Mr. MACFARLANE. No; that is, we took his testimony for what it was worth to the commission, and after we were satisfied as to the identity of the claimant, and then regarding the value of the goods, let other testimony go for as far as it was worth; but we then, after these interrogations, as to what their occupation was and how long they had been in the country, what wages they were receiving, and in that way—that was the way of reaching the amount that the man was entitled to, and after, of course, going through every item to see that it was not overcharged.

Senator MITCHELL. Now, this claim is made up of 29 different articles. Did you, in their testimony, ask the claimant as to whether he owned these articles or not?

Mr. MACFARLANE. That question was asked in the testimony—whether he was the owner of the articles—and their answer was invariably "Yes."

Senator MITCHELL. You decided the claim upon his own testimony?

Mr. MACFARLANE. In some instances we did; where the claims were of a larger amount we then required further evidence.

Senator MITCHELL. This claim was for \$103.60, and you allowed \$71.80—that is to say, you reduced the claim about \$31. Can you tell why you reduced it?

Mr. MACFARLANE. We reduced it because—

Senator FOSTER. On what item—any particular item, or took off percentage?

Mr. MACFARLANE. In a case of that kind we went carefully over the item, and then it depended on the evidence; after his evidence was acquired and after we thought that his goods were listed at *

prices, that always governed the commission in making their awards; it was a case, in many instances, of reducing this thing to a common-sense proposition; we were handling 6,700 claims for personal effects, and it was a case of using judgment.

Senator FOSTER. I understand it is a small claim, and you did not probably go into it as fully and specifically as in some other claims.

Mr. MACFARLANE. I would not say that exactly, Senator. Every item there was carefully scrutinized, and then in the evidence that he may have had it for five years, he may have had it for ten years or two years—all that put together.

Senator MITCHELL. But as a matter of fact, Mr. Macfarlane, in this particular claim you have awarded solely upon the testimony of the claimant and your own knowledge and the knowledge of your associates in regard to matters and things here?

Mr. MACFARLANE. On the evidence that he gave, Mr. Senator.

Senator MITCHELL. You have been compelled to rely and did rely on his testimony alone, together with your own knowledge of affairs here?

Mr. MACFARLANE. Yes, sir.

Senator MITCHELL. In other words, you called no witness aside from the claimant to shed any light on this particular claim?

Mr. MACFARLANE. No, I think not in that particular claim.

Senator FOSTER. Did he have any books or invoices saved from the fire?

Mr. MACFARLANE. These are matters of record there; he would bring the inventory to the consul. All these claims went through the consulate, and from the consulate went back to them; they had been changed at the consulate, and then they came in again to us, so that every one of these claims, Chinese and Japanese mostly, was scrutinized by a committee of Chinese merchants and also the consulates.

Senator MITCHELL. Now, let us have No. 20.

Mr. MACFARLANE. Here is claim No. 20, of S. Ozaki, assignee of Murashige Yoshisuke.

Senator FOSTER. That is a Japanese claim?

Mr. MACFARLANE. Yes, sir.

Senator FOSTER. For what amount is this claim, Mr. Macfarlane?

Mr. MACFARLANE. Two hundred and eleven dollars and forty-five cents.

Senator FOSTER. That was the amount of the claim as presented?

Mr. MACFARLANE. Yes, sir.

Senator FOSTER. And how much was allowed on this claim?

Mr. MACFARLANE. One hundred and twenty-five dollars and seventy cents.

Senator MITCHELL. That is a Japanese claim?

Mr. MACFARLANE. Yes, sir.

Senator MITCHELL. Well, how was it investigated?

Mr. MACFARLANE. On the evidence that was presented, together with the result of our interrogations as to how long he had been in the country, what wages he had received, and getting at what the man would naturally be worth—getting the standing of the man.

Senator MITCHELL. From whom did you get that?

Mr. MACFARLANE. From him himself in the testimony; yes, sir.

Senator MITCHELL. Did you call any other witnesses in this case?

Mr. MACFARLANE. Not in that particular case—none of these small cases.

Senator MITCHELL. You reduced the claim from \$211.45 to \$125.70.

Mr. MACFARLANE. Yes, sir.

Senator FOSTER. That claim has been through the consulate?

Mr. MACFARLANE. These Chinese and Japanese claims, including this particular case, went through the committee of Japanese merchants and consul, and the Chinese through a committee of Chinese merchants and their consul.

Senator MITCHELL. After the claim was presented?

Mr. MACFARLANE. No; they made up their claims. The Chinese consul and Japanese consul published notice for them to make up the list of their goods and bring them before their committee.

Senator MITCHELL. As a matter of fact, where were most of these goods bought?

Mr. MACFARLANE. Here in Honolulu.

Senator MITCHELL. Are they American goods?

Mr. MACFARLANE. Yes, sir; goods imported, and then was for sale here; but, for instance, in a Japanese case, why, of course, they would be Japanese goods mostly.

Senator MITCHELL. Was the collector of the port ever called in to see about the question of the duties paid on these goods?

Mr. MACFARLANE. We required, in cases of merchants, them to bring certified invoices from the collector to verify their claims.

Senator MITCHELL. Are you able to state where this man lived—what particular house?

Mr. MACFARLANE. (After looking at the evidence.) Occupation, merchant; district 15, Beretania street; dated destruction at fire January 20.

Senator MITCHELL. Simply gives the district that is all?

Mr. MACFARLANE. The district and occupation as merchant.

Senator MITCHELL. But does not give his specific residence?

Mr. MACFARLANE. No; all that was brought out in testimony, Senator, where he lived.

Senator MITCHELL. Your court was satisfied that he had a specific residence?

Mr. MACFARLANE. Yes, sir; we had to be satisfied on that every time.

Senator MITCHELL. In every case?

Mr. MACFARLANE. In every single case. For instance, hundreds of them would be living in one building, a tenement building, and that would be designated on the maps here that would be presented.

Senator MITCHELL. I suppose in this case now, as well as in the other that were examined, instead of finding that any specific articles were here and should not be here, you simply made a general reduction all along the line, is that it?

Mr. MACFARLANE. We did.

Senator MITCHELL. Mr. Macfarlane, when you called these claimants up did you keep a record of the questions and answers?

Mr. MACFARLANE. We did.

Senator MITCHELL. Have you them here in this case?

Mr. MACFARLANE. That is in the stenographer's notes.

Senator MITCHELL. Will you let us have copies of each of the several cases that we examine here, together with a copy of the testimony in each case attached?

Mr. MACFARLANE. We will if we can get the notes of the stenographer.

Mr. MITCHELL. Did you ever have the notes extended?

Mr. MACFARLANE. Oh, no.

Senator MITCHELL. The record is stenographic, is it?

Mr. MACFARLANE. Yes; and then we had the stenographer read back their notes to us, where we were coming to large claims.

Senator MITCHELL. You understand, Mr. Macfarlane, we will be asked all kinds of questions about the fire, and we want to be prepared to answer them; what we would like to have is a copy of each of the claims that we have now examined here, together with a copy, if you can get it, of all the evidence taken in each case attached to the particular case to which it applies.

Mr. MACFARLANE. All right.

Senator MITCHELL. This is 30, the case of S. Ozaki, assignee of Shigenui Chutaro; this appears to be a case of an assignee. Are there many of these cases?

Mr. MACFARLANE. A great many, S. Ozaki, for the Japanese in that shape, there were about twenty-six or twenty-seven hundred claims; and these are the ones that went through that committee, and for revision in the consulate before they came to us.

Senator MITCHELL. The amount of the claim was how much?

Mr. MACFARLANE. \$47.10.

Senator MITCHELL. How much did you allow?

Mr. MACFARLANE. \$42.40.

Senator MITCHELL. The investigation in this case was substantially as in the other cases?

Mr. MACFARLANE. It was.

Senator MITCHELL. This is claim No. 7, by whom?

Mr. MACFARLANE. By the Japanese Methodist Episcopal Church.

Senator MITCHELL. What is the claim; how much?

Mr. MACFARLANE. Three thousand and ninety-seven dollars and seventy cents.

Senator MITCHELL. What did you allow?

Mr. MACFARLANE. Two thousand six hundred and thirty-one dollars and sixty-five cents.

Senator MITCHELL. This claim was for personal property wholly, was it?

Mr. MACFARLANE. For church and fixtures \$2,194, parsonage and fixtures \$370, fence and water-closet \$118, total \$2,682; personal property \$415.70.

Senator MITCHELL. This was a Japanese Methodist Episcopal Church, was it?

Mr. MACFARLANE. Yes, sir.

Senator MITCHELL. What was the amount of the claim for the church and fixtures, parsonage and fixtures, fence and water-closet—was \$2,682, was it?

Mr. MACFARLANE. Yes, sir.

Senator MITCHELL. Now, what did you allow on that portion of the claim?

Mr. MACFARLANE. We allowed \$2,413.80.

Senator MITCHELL. How did you arrive at that conclusion?

Mr. MACFARLANE. We deducted 10 per cent from the building because of its age as it came up in the testimony.

Senator MITCHELL. How did you arrive at the conclusion as to the value or cost of the church and fixtures, if you know?

Mr. MACFARLANE. From the evidence that was given in the hearing of the case, which we have here.

Senator MITCHELL. Can you attach that evidence to a copy of the case?

Mr. MACFARLANE. We can.

Senator MITCHELL. Now, in the case of the personal property in the claim, amounting to \$415.70, how much did you allow on that?

Mr. MACFARLANE. Two hundred and seven dollars and eighty-five cents.

Senator MITCHELL. Do you know how many witnesses and who were called in that case?

Mr. MACFARLANE. I do.

Senator MITCHELL. Please state them.

Mr. MACFARLANE. Claim No. 7, Japanese Methodist Episcopal Church, was called for consideration, J. J. Dunn, esq., appearing as attorney for the government, assisted by Mr. Andrade, of the firm of Andrews, Peters & Andrade, the following witnesses were sworn: Rev. K. Kihara, C. B. Ripley, who was one of the ones that signed this appraisalment list and appraised the buildings.

Senator MITCHELL. He is a white American citizen?

Mr. MACFARLANE. Yes, sir.

Senator MITCHELL. Well, who next?

Mr. MACFARLANE. S. Yosumori, a Japanese; I. R. Kujuhu, another Japanese; Kawasaki, another Japanese; another, named Rev. G. L. Pearson, one of the trustees of the church, an American, I think. That was the clerk's record of the witnesses that were called, and the stenographic notes will show their testimony.

Senator MITCHELL. Were any of these witnesses—I mean the Japanese witnesses—men known to your committee and of good standing?

Mr. MACFARLANE. Yes; they were connected with the church.

Senator MITCHELL. Men doing business here?

Mr. MACFARLANE. No, not business men; they were religious men, men of good standing.

Senator MITCHELL. What is this?

Mr. MACFARLANE. S. Shimamoto.

Senator MITCHELL. This is claim No. 1?

Mr. MACFARLANE. Yes, sir; being claim of S. Shimamoto.

Senator MITCHELL. What is the amount in that case?

Mr. MACFARLANE. The total of that claim is, after making corrections of the footings, \$8,935.26. It was filed for \$10,923.84; the difference is in the corrections of footings.

Senator MITCHELL. The amounts given by the claimant, when added up, gave the amount you last give?

Mr. MACFARLANE. Yes, sir.

Senator MITCHELL. This is a mercantile claim?

Mr. MACFARLANE. Yes, sir.

Senator MITCHELL. Was he a merchant doing business here?

Mr. MACFARLANE. Yes, sir.

Senator MITCHELL. What did you award in the case?

Mr. MACFARLANE. We awarded in that case \$4,826.05.

Senator MITCHELL. That was about 50 per cent of the claim, was it?

Mr. MACFARLANE. Just 50 per cent of the claim—no; less than 50 per cent.

Senator MITCHELL. Can you state what witnesses you had before you in regard to that claim?

Mr. MACFARLANE. Yes; for that claim occupied the time of the

commission altogether a couple of weeks solid. It was first heard on May 31. (Witness reads from records:)

The claim of S. Shimamoto, No. 1, was called and the claimant represented by the counsel, F. M. Brooks, esq., and Kinney, Ballou & McClanahan. He announced himself ready to proceed. The firm of Andrews, Peters & Andrade represented the government in this case. The following witnesses were called and sworn on behalf of the claimant: S. Anno, a Japanese well known to the commission; R. Segi (I think he was the manager, or one of the managers, of the firm of Shimamoto); Richard Weeden, custom-house inspector; T. Marumoto; S. Ozakai, a large Japanese merchant; K. Emyamula, a Japanese; G. W. R. King (he was one of the inspectors of the board of health and had supervision of this building after it was burned, and they were reclaiming the goods), and Edward Touse (he was delegated, I think, by the board of health to attend to that same building).

The next day the case came up again. It is not within the evidence—the testimony, the clerk's record of the day—but the testimony in this case was very long and very complete and will appear in the stenographer's notes and will be attached.

Senator MITCHELL. Not necessary to read any more.

Mr. MACFARLANE. But there were many times that that case was called up. The next day, I would like to state, that Henry E. Cooper, secretary of the Territory, was called up in evidence in this case. He was in connection with the board of health.

Senator MITCHELL. These witnesses were thoroughly cross-examined?

Mr. MACFARLANE. They were very rigidly, in this particular case.

Senator MITCHELL. You now hand me claim No. 75; what claim is that?

Mr. MACFARLANE. The claim of Yee Wo Chan & Co., a Chinese firm; the amount as filed is \$77,703.78.

Senator MITCHELL. And you awarded how much?

Mr. MACFARLANE. The award is \$23,555.75.

Senator MITCHELL. Did you find on examination that this claim was exorbitant and out of all kind of proportions?

Mr. MACFARLANE. Well, the evidence in that case—we called for certified copies from the custom-house; we called for the inventory of stock on hand—the last inventory on hand taken before the fire, and we called several witnesses in that case and had the testimony of each. Then we took and scrutinized the prices of the articles of merchandise in this claim, item by item, as we did in every case. We laid particular stress on what was the age of the goods, and after we were satisfied as to the cost price of these articles—that is, from a mercantile point of view—we then got at the age of these goods—how long they had been on stock—so that if these people had been forced to sell these goods they never, of course, could have reclaimed the amount of their cost, because they had been in there so long. There was more or less wear and tear, and counter worn, rusty hardware, which would naturally follow in the matter of storing large amounts of merchandise and unsalable goods. These had to be taken into consideration, and then there was nothing to come before the commission that could satisfy them that these goods had really existed in that store. Now, these were questions that were all to be taken up in connection with the adjudication of the claim.

Senator FOSTER. Who were the attorneys in this particular case?

Mr. MACFARLANE. Paul Neumann.

Senator FOSTER. What were they supposed to pay Mr. Neumann for his services?

Mr. MACFARLANE. That I do not know.

Senator FOSTER. Do you know anything about any other agreements?

Mr. MACFARLANE. I do not.

Senator FOSTER. You know nothing about any private agreements as regards attorneys' fees?

Mr. MACFARLANE. I know nothing at all about it; I never heard it discussed.

Senator FOSTER. You do not know whether they were to have a portion of the bill or so much money?

Mr. MACFARLANE. I do not know. Of course, that did not come within the province of the commission; and I did not hear at any time outside of the commission what any of the attorneys were getting in lieu of their fees.

Senator MITCHELL. What portion, if any, of the amount of this claim was for insurance?

Mr. MACFARLANE. Twelve thousand dollars.

Senator MITCHELL. Is that included in the \$77,703?

Mr. MACFARLANE. It has been deducted.

Senator MITCHELL. Was that a part of the \$77,703.78, or is it in addition to that amount?

Mr. MACFARLANE. No, it is not; the amount of the insurance, \$12,000, was deducted, leaving the net claim \$65,703.78.

Senator MITCHELL. In this claim of this Chinese company, amounting to \$77,703.78, the sum of \$8,015 was for a building, was it not?

Mr. MACFARLANE. That is right.

Senator MITCHELL. Now, the \$2,218.50 was furniture and fixtures?

Mr. MACFARLANE. That is correct.

Senator MITCHELL. And \$62,208.55 for merchandise in store?

Mr. MACFARLANE. I will say after that was changed, \$67,470.28, Mr. Mitchell.

Senator MITCHELL. That includes merchandise, condemned warehouse, that \$5,005.74, making \$67,213.

Mr. MACFARLANE. Yes, sir; and here [indicating] \$255.99.

Senator MITCHELL. Now, what I want to know is, what did you allow on the building on the item of \$8,015, the amount of the claim; how much did you reduce it, if any?

Mr. MACFARLANE. Schedule C that would be in; \$4,150. The particulars there were items, the first item, \$3,500, that building, and the other building \$300, and the third building \$350, making the total \$4,150.

Senator MITCHELL. About 50 per cent of the claim?

Mr. MACFARLANE. Yes, sir.

Senator MITCHELL. How does that compare with the appraisement of that building?

Mr. MACFARLANE. This was not appraised. It was not a condemned building.

Senator MITCHELL. Were all the buildings included in this particular claim out of the condemned district? Why was it not appraised?

Mr. MACFARLANE. Because they did not get around. They did not have time to get around to appraise everything. They did not get through in time. The fire was coming and they did not get a show to go through and appraise this building before it was consumed. I would like to state in connection with that, Senator, that we called witnesses in, one of which was Mr. Ripley, I think, the government

appraiser, and we also called in Mr. Gurrey, secretary of the board of fire underwriters, and also Mr. Dickey, architect.

Senator MITCHELL. Well, now, on the item of \$62,208.55 for merchandise in store, what did you allow?

Mr. MACFARLANE. The merchandise award was \$31,245.45.

Senator MITCHELL. That is on the three items?

Mr. MACFARLANE. On everything; yes, sir.

Senator MITCHELL. Including merchandise in the store, merchandise in the condemned warehouse, and merchandise on the condemned wharf?

Mr. MACFARLANE. Including everything. I think that I stated that this was the building that was consumed by the accidental fire. No, I take it back, I do not know that I made that statement. It was not a condemned building. On the contrary, it was a very fine brick building.

Mr. W. A. WHITING. I wish to know when that \$12,000 insurance was deducted; whether it was not deducted after you arrived at the result claimed?

Mr. MACFARLANE. It was.

Senator BURTON. Why did you deduct the insurance?

Mr. MACFARLANE. Because it was paid, Senator Burton.

Senator BURTON. Well, you are making no provision, then, for insurance companies?

Mr. MACFARLANE. This claim comes in on its own merits; he files a claim for so much money.

Senator BURTON. That is the amount they sustained loss?

Mr. MACFARLANE. Yes, sir; he files a claim for so much money for his actual loss.

Senator BURTON. That is, the actual loss after his insurance is paid?

Mr. MACFARLANE. Now, for instance, he puts it in this form, that he sums up his whole loss up to this much, without a certified voucher, and the commission requires him to state how much insurance, if any, and how much was paid.

Senator BURTON. How much was paid in this instance?

Mr. MACFARLANE. This was \$12,709.70.

Senator BURTON. What was the total claim?

Mr. MACFARLANE. \$77,703 78.

Senator BURTON. Well, then he received a little over \$12,000 in the way of insurance?

Mr. MACFARLANE. Yes, sir.

Senator BURTON. That was deducted?

Mr. MACFARLANE. Yes, sir.

Senator BURTON. Now, who reimburses the insurance company is what I want to know?

Mr. MACFARLANE. Under the act governing this commission we had the matter of the insurance claims argued here before us by the attorney-general, representing the Government, and also the counsel for several insurance companies, and the decision arrived at was that the insurance companies had no standing under this act.

Senator BURTON. Under the Territorial act?

Mr. MACFARLANE. Yes, sir.

Senator BURTON. Well, then, your answer is, nobody reimbursed the insurance company?

Mr. MACFARLANE. Yes, sir.

Senator BURTON. They do not get anything?

Mr. MACFARLANE. They do not get anything.

Senator BURTON. Under what principle of equity should the insurance companies stand these losses and not be reimbursed and the individuals be reimbursed?

Mr. MACFARLANE. Because of the wording of the act.

Senator BURTON. I am not asking particularly about the act; but what is the principle of equity of allowing the claims of individuals and not allowing the claims of insurance companies?

Mr. MACFARLANE. Because we claimed that they have no jurisdiction under this act. We were acting and adjudicating these claims under an act of the Territory.

Senator MITCHELL. Well, the Senator's question goes away beyond that as to the equities of the case without regard to the act.

Mr. MACFARLANE. Well, we claimed that there was no destruction of property; they had no property to be destroyed; the act says for destruction of property.

Senator BURTON. You do not understand me; I am not complaining of your interpretation of the act, but I am trying to get at, if you can tell me, on what principle should individuals be reimbursed for losses caused by that fire and the insurance companies not be reimbursed for the losses they sustained.

Mr. MACFARLANE. Because we took the stand that the insurance companies took a risk there and for which they received a compensation in the way of a premium; they insured them against loss by fire; now there is an obligation between these two men. I come to them and I say, "Here, I want insurance," and they insure me against loss by fire; they take my premium, and they have received a consideration; therefore we—

Senator BURTON. Now, they do not insure, however, against the wanton, or if I do not use that form in its offensive sense, but willful destruction of property ordered by a municipality; they do not insure against that, do they? They insure against accidents.

Mr. MACFARLANE. No; they insure against any kind of a loss. The clause "excepting the acts of the civil authorities" do not appear in these contracts; they were the other forms of policies; one was the New York Standard form policy, which provides for the case of the civil authorities; but the old form of policy did not except the acts of the civil authorities.

Senator BURTON. You mean by that that it took the risk of any destruction, whether by the civil authorities?

Mr. MACFARLANE. It was according to that form.

Senator BURTON. So for that reason such a company would not be entitled to recover?

Mr. MACFARLANE. That is it.

Senator BURTON. Now, then, the other form?

Mr. MACFARLANE. The other form provides, however, that the acts of the civil authorities are excepted, so that under those policies they did not have to pay.

Senator BURTON. Well, the companies in one case excepted against the acts of the civil authorities and the others did not?

Mr. MACFARLANE. Yes, sir.

Senator BURTON. How did you do with those that did not?

Mr. MACFARLANE. They made no claim at all, because they did not have to pay.

Senator FOSTER. They did not pay the loss to the claimant?

Mr. MACFARLANE. They were not obliged to pay the loss of the claim, because they claimed an exemption under that particular act.

Senator BURTON. Then, if I understand it, that class of companies that took the risk, stating that they would not pay in case the civil authorities ordered the fire, for instance, those did not have to pay.

Mr. MACFARLANE. They did not have to pay; suit was brought against them—

Senator BURTON. Well, they did not pay?

Mr. MACFARLANE. No, sir.

Senator BURTON. Well, the others did pay?

Mr. MACFARLANE. A part of them did, and they sought to recover from the commission under a substitution for the amount paid on their part—for the goods destroyed—to the claimants.

Senator BURTON. Which was not done by the commission?

Mr. MACFARLANE. Which was not done for the reason stated, because they had no jurisdiction in the matter.

Senator BURTON. Well, I understand your position was that you could not pay them under your authority, but you do not pretend to decide the equitable question?

Mr. MACFARLANE. No, sir.

Mr. W. W. WHITING. Mr. Macfarlane stated that they first agreed on \$35,000 for the award, then he deducts \$12,000 insurance from that \$35,000, making the award \$23,000, and then you say that the insurance company have a lien on the \$23,000 to the extent of the insurance money they paid, practically deducting it twice from the claimant, if you will read the decision. Of this \$35,000, then they take off \$12,000 against the claimant as received; that leaves a balance of \$23,000; they then subrogate the insurance company to the extent of \$12,000.

Mr. MACFARLANE. Now, then, if the insurance company, if the claimant, has subrogated to the insurance company any part of that claim it is up to the insurance company and the claimant to settle it and not this commission; and when we made an adjudication of the claimant's claim we bore this in mind, and we did note on the claimant's claim that this award, whatever it was, would be subject to the subrogation that the claimant made to this insurance company, and therefore it was up to the insurance company and the claimant to settle it between themselves.

Senator BURTON. Then you found the loss to be \$35,000?

Mr. MACFARLANE. The total claim, \$36,265.45; that was the adjudication of the claim; then from that these people had received so much insurance money, and we subtracted that from the amount of their claim, because they had already recovered \$12,000 of their loss, and it was for us to say what their loss was; consequently if we found their loss to be \$36,000 and if they recovered \$12,000 insurance in money, or any sum, then we deducted that from the amount of the claim, giving them \$23,500.

Senator BURTON. Did you do that?

Mr. MACFARLANE. We note that on the certificate of award, on the claimant's claim, we note that this certificate is subject to a certain subrogation—that he has given a certain insurance company a subrogation; but the insurance company do not want to see them get the money. If there is anything due the insurance company let the insurance company get it from the claimant, if it is wrongfully paid; if they have any subrogation or any standing, or if that insurance money was paid to this man with a string on it, then let them remove the string.

Senator MITCHELL. Now you hand me, Mr. Macfarlane, claim No. 434. State what that claim is.

Mr. MACFARLANE. No. 434 is the claim of Lahapa Mauiawa.

Senator MITCHELL. Is that a claim of a native Hawaiian?

Mr. MACFARLANE. It is.

Senator MITCHELL. State the amount of the claim.

Mr. MACFARLANE. It was filed as \$29,802.50, but the corrected footings of the claim was \$31,007.50.

Senator MITCHELL. In other words, the claimant gave items that amounted to much more than his footings. Is that it?

Mr. MACFARLANE. Yes, sir.

Senator MITCHELL. Is this a mercantile claim?

Mr. MACFARLANE. No; this is a personal-effects claim.

Senator MITCHELL. Is this one of the largest claims presented?

Mr. MACFARLANE. One of the largest personal-effects claims.

Senator MITCHELL. What amount did you award?

Mr. MACFARLANE. Three thousand one hundred and twenty dollars and thirty cents.

Senator MITCHELL. Did you call a number of witnesses and inquire into that claim?

Mr. MACFARLANE. We had a great number. I could not say, without having the minutes of the clerk, but I will attach that to my copy—six or seven witnesses.

Senator MITCHELL. And you cut the claim down from thirty-one thousand to the amount named by you?

Mr. MACFARLANE. Yes, sir.

Senator MITCHELL. You now hand me claim No. 403. Please state whose claim that is.

Mr. MACFARLANE. James P. Mendonca.

Senator MITCHELL. What nationality is Mr. Mendonca?

Mr. MACFARLANE. Portuguese.

Senator MITCHELL. What is the amount of his claim?

Mr. MACFARLANE. Twenty-one thousand nine hundred and twenty dollars and seventy-five cents.

Senator MITCHELL. What is the character of the claim as shown by the papers?

Mr. MACFARLANE. Buildings.

Senator MITCHELL. What is the amount of the award?

Mr. MACFARLANE. Three thousand nine hundred and fifty-six dollars and fifty cents.

Senator MITCHELL. Do you know what the appraisement was in that case?

Mr. MACFARLANE. In this claim he claims for the buildings that are all identified on the maps. He claims for buildings that, in the evidence, turns out the interest is in other claimants.

Senator MITCHELL. He did not own the property?

Mr. MACFARLANE. No, sir; or, if he did own the property, then there must have been a lease or something whereby the parties putting up these buildings could have them at the time of the surrender of the lease.

Senator MITCHELL. So you allowed him nothing for these particular buildings?

Mr. MACFARLANE. Allowed him nothing.

Senator FOSTER. Other claims cover the same buildings that were excluded from this claim in the allowance?

Mr. MACFARLANE. They do; that is, in many instances we find as high as six different claimants for these different buildings, all claiming a certain interests, leaseholds, etc., and in adjudicating th

Mr. SILLIMAN. Now, do you know what the terms of that policy were, as to whether there was an exemption or not, without any regard to the liability of the insurance company, or exemption of its liability?

Mr. MACFARLANE. I do not know.

Mr. SILLIMAN. Did you refer to the policy at the time you deducted that insurance, or find out; or did not you deduct that amount without regard to the terms of the policy?

Mr. MACFARLANE. That I could not recall.

Mr. SILLIMAN. Well, as a matter of fact, you know whether you examined the policy or not?

Mr. MACFARLANE. I do.

Mr. SILLIMAN. Did you examine the policy?

Mr. MACFARLANE. I presume we must have.

Mr. SILLIMAN. If the terms of that policy had exempted the insurance company from fire caused by order of the civil authorities, and they in fact had made the payment just the same, would you not have deducted it from the award without any regard to the terms of the policy, just because it had been paid?

Mr. MACFARLANE. We would have.

Mr. SILLIMAN. And these payments were mostly made before any suits were instituted, were they not?

Mr. MACFARLANE. That I can not tell.

Mr. SILLIMAN. You can tell by the dates?

Mr. MACFARLANE. No; I can not tell; there are so many of them.

Senator MITCHELL. The reason you deducted was because you believed you had no jurisdiction under the act?

Mr. MACFARLANE. Yes, sir.

Senator BURTON. What is your claim? Do you claim that the insurance company ought to have been reimbursed?

Mr. SILLIMAN (answering). My claim is here—was a straight assignment, without a word said about insurance in it, by which the claimant assigns a portion of his losses, which is made immediately upon the adjustment as quickly as possible after the fire, and I claim that they acted arbitrarily in deducting the amount of the insurance so paid without any examination of the provisions of the policy or without any examination as to the effect of the assignment that is made or upon whom the loss would fall. In this case an examination of the assignment, I think, will clearly show that the claimant is the loser, not the insurance company, and I think there was discrimination.

Senator BURTON. Did that policy have a provision that it would not meet the loss even if it was ordered by the civil authorities?

Mr. SILLIMAN. The provision of that policy was different from any of the test suits. It was an ambiguous clause, which provided—one of them—that there should be no liability for loss occasioned by the act of the civil authorities in the spread of fire; and there were a number of other provisions that were different from the other two forms that have been referred to, looking toward exemption of fires caused by unusual means, which were different from the ordinary policy, and the company decided that it would not fight the man, but simply took a subrogation assignment and paid the losses immediately, and it was taking a direct assignment, not in the usual form of subrogation, but a direct assignment upon which it had filed a coclaim under the rule, and their claim as coclaimant was stricken out by the commission, and they were required to file a separate claim later on. Filing separate claims, the commission, when it came to make adjudication upon the

claim of the claimant, made this claim subject to the subrogation of the insurance company.

Mr. MACFARLANE. Were you, under your policy, Mr. Silliman, obligated to pay this claimant these losses?

Mr. SILLIMAN. Well, as I say, that was a question upon which lawyers could well differ. It was a doubtful question. It was never tested. They simply made the payment.

Mr. MACFARLANE. When your insurance company made that payment to the claimant, then you could not say whether they were bound to do it under the policy or not?

Mr. SILLIMAN. I say it was a question upon which judges or lawyers could well differ. It is an open question never determined.

Mr. MACFARLANE. When that amount was paid to the claimant to satisfy these losses, why did you take from this claimant an assignment and ask them to pay it back to you again?

Mr. SILLIMAN. I took an assignment;

Mr. MACFARLANE. Why did you take an assignment?

Mr. SILLIMAN. Because it was a doubtful question, and we were satisfied to make the claim good at that time and take our chances of recovering from the Government.

Mr. MACFARLANE. Or, in other words, you paid them this money with a string on it?

Mr. SILLIMAN. We paid them this money on their assignment, which was a direct assignment of so much of any award that might be received.

Senator MITCHELL. Have you any claim here by an American?

Mr. MACFARLANE. Yes, sir.

Senator MITCHELL. You hand me claim No. 70. What is that, Mr. Macfarlane?

Mr. MACFARLANE. Hoogs & Weaver.

Senator MITCHELL. Are they Americans?

Mr. MACFARLANE. They are both Americans; one is the manager of the large drayage firm in this country—the first one—and Mr. Weaver is of the firm of Castle & Weaver, attorneys.

Senator MITCHELL. What is the amount of the claim?

Mr. MACFARLANE. Six thousand dollars.

Senator MITCHELL. What is the character of the claim?

Mr. MACFARLANE. Building; one building, I think.

Senator MITCHELL. What is your award?

Mr. MACFARLANE. The award, \$5,400. We allowed \$5,400 out of the \$6,000. Now, in that case we had considerable evidence taken, and expert evidence, and it was proven that the building, if I recollect right, was only—not quite six months old.

Senator MITCHELL. Was that a brick building?

Mr. MACFARLANE. No; a wooden building.

Senator MITCHELL. About what size?

Mr. MACFARLANE. I could not tell except by referring to the evidence.

Senator MITCHELL. Was it a residence?

Mr. MACFARLANE. A tenement house for natives and all classes.

Senator MITCHELL. And comparatively new?

Mr. MACFARLANE. It was six months old.

Senator MITCHELL. What was the income?

Mr. MACFARLANE. That came, I think, in the evidence, which I will have transcribed.

Senator MITCHELL. Was it appraised?

Mr. MACFARLANE. Yes, sir.

Senator MITCHELL. At what figure?

Mr. MACFARLANE. Seven thousand dollars.

Senator MITCHELL. One thousand more than the claim made?

Mr. MACFARLANE. Yes, sir; at the time it was built, when material was cheap. Since that time there was a large advance in lumber and hardware, whatever it is.

Senator BURTON. Are you chairman of the committee?

Mr. MACFARLANE. Yes, sir.

Senator BURTON. You made no distinction in the adjudication of claims, where the loss occurred within the district ordered burned or district where the fire spread accidentally?

Mr. MACFARLANE. None.

Senator MITCHELL. Mr. Macfarlane, claim 53 has been handed me. What is it?

Mr. MACFARLANE. S. Ozaki, assignee of Asada Takuyemon.

Senator MITCHELL. Is that a Japanese claim?

Mr. MACFARLANE. It is.

Senator MITCHELL. What is the amount of the claim presented?

Mr. MACFARLANE. Sixty-two dollars and twenty-five cents.

Senator MITCHELL. What is the amount awarded?

Mr. MACFARLANE. Thirty-one dollars and ten cents.

Senator MITCHELL. What is the claim for?

Mr. MACFARLANE. Personal effects.

Mr. H. A. BIGELOW. Aside from the sworn statement in the complaint, Mr. Macfarlane, was there any evidence given in that case?

Mr. MACFARLANE. No. In answer, I will say that there was no evidence taken in that case, because the claimant was an absentee.

Mr. BIGELOW. There was no evidence as to the value?

Mr. MACFARLANE. No other evidence.

Mr. BIGELOW. What percentage of this claim was awarded of the amount claimed?

Mr. MACFARLANE. Just 50 per cent. In the matter of absentees, where we were satisfied that their goods were lost in the methods suggested by Mr. Bigelow, we allowed upon these claims 50 per cent right through; that is, provided it did not appear to us to be exorbitant or excessive, considering their occupation.

Senator BURTON. Did you let them know it would be 50 per cent before the allowance was made?

Mr. MACFARLANE. No; I think it at one time seemed to be rumored on the outside that they could not get anything at all. In fact, among the last things the commission did in their session was to take up the matter of absentees; what we would do with them whose cases were practically proven through the consul.

Senator BURTON. Why did you make it 50 per cent?

Mr. MACFARLANE. Because we thought if they were not here to prove their claims they ought to have been here. I would like to say one word in support of that—that in many instances we made inquiries as to where these absentees were and their evidence, and it would come back that the men had waited here so long in this community, waiting for the commission to hear their claims, that they could not wait any longer, and that they were obliged to go on to the plantation; they could not wait any longer; so they would send powers of attorney—most of the absentees sent powers of attorney, where they left it with others, or with the consul, in many cases, to appear for

them. Therefore in view of their not being here there may have been an element of doubt about their claims, so that we only allowed them 50 per cent right straight through.

Mr. BIGELOW. Do you know what percentage of the total number of claims were Japanese claims?

Mr. MACFARLANE. I do not know.

Senator MITCHELL. Has the Territory of Hawaii assumed the payment of these claims?

Mr. MACFARLANE. Well, there was an appropriation by the legislature of one million and a half of dollars for these claims, but nothing has been done so far.

Senator MITCHELL. Did you recently receive \$140,000 from the Treasury of the United States?

Mr. MACFARLANE. I believe the government did.

Senator MITCHELL. Has the board of health applied that pro rata to these claims?

Mr. MACFARLANE. I do not know.

Senator BURTON. How was that allowed?

Mr. MACFARLANE. I do not know.

Senator MITCHELL. I will ask you, Mr. Macfarlane, if the statement I am about to read from the laws of the Territory of Hawaii, session of 1901, is a part of the laws as passed at that session?

SECTION 10. The judgments recorded, as provided in section six of this act, shall be paid out of the following appropriations: The sum of fifteen hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purpose of paying the awards or judgments made or rendered by said commission, for which purpose all moneys hereafter returned by the United States Government to the Territory of Hawaii on account of the payment of interest on bonds are hereby specifically appropriated, the balance of said fifteen hundred thousand dollars to be paid out of the general revenues of the Territory of Hawaii.

Now, it is under that section, is it, that the money recently received, \$140,000, is applied pro rata on the awards made by your commission?

Mr. MACFARLANE. It is. But, Senator, I would say that the commission has no authority, after its adjudications, to apply any proceeds.

Senator BURTON. What is the reason that you did not make any distinction between the losses claimed in the district that was ordered burned and the district that was not?

Mr. MACFARLANE. Because I suppose it was all the result and in consequence of the order of the board of health.

Senator BURTON. If the city of Honolulu had a sufficient fire protection, this fire would not have spread.

Mr. MACFARLANE. I was not here in the country at the time.

Senator BURTON. Well, you know that as a citizen.

Mr. MACFARLANE. Well, I know that as a citizen, but it was impossible with the appliances that we had to have stopped that fire.

Senator BURTON. If the city will not protect itself against losses of this kind, why, it is setting a pretty bad precedent, don't you think, to come and reimburse it?

Mr. MACFARLANE. Senator Burton, it was such a fire—the fire got such a start—and it was in the part of town where the buildings were all wood, and even with a department of twice the efficiency that we have here I question very much whether they could have checked the fire.

Senator MITCHELL. Mr. Macfarlane, can you tell us about what

proportion of the awards made by you are on claims that were for property destroyed within the condemned district—any means of telling that?

Mr. MACFARLANE. It would be a very difficult thing.

Senator MITCHELL. Anything else, Mr. Macfarlane, you desire to state?

Mr. MACFARLANE. No; nothing, Senator, except to assure you that the greatest care was exercised in the adjudication of them all and without prejudice to anybody, but as a rule always giving the benefit of the doubt to the government.

R. D. SILLIMAN, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. SILLIMAN. R. D. Silliman; 31 years of age; I live in Honolulu; I am a lawyer.

Senator MITCHELL. How long have you resided and practiced law here?

Mr. SILLIMAN. Four years. Part of the time I was on the bench as judge. I was appointed by President Dole and also, afterwards, by President McKinley, but I resigned soon after my appointment by the President, and the rest of the time I have been engaged in the practice.

Senator MITCHELL. Now make any statement you wish.

Mr. SILLIMAN. I was present in the condemned district on June 20, the day of the fire which got beyond the control of the board of health. That day the fire was started at about 8 o'clock in the morning. It was one of the sea or south wind days that we often have in June.

Senator MITCHELL. Where?

Mr. SILLIMAN. It was started in what is called block 15—what we would call toward the mountain—Kaumakapili Church. Kukui street is back of the block from where the fire was started, and the district that they were about to burn about directly behind or toward the mountain from the Kaumakapili Church and from there toward Nuuanu street, which is on the south side. The fire was started for the purpose of burning toward Nuuanu street and up to Kukui street. The fireman in charge of the burning at that time has since deceased, I believe; but he explained that it was his intention to burn against the south wind, which was blowing lightly that day, and after the fire was started it turned considerably against the wind, and the wind suddenly changed and came from the trade winds, which was an unusual occurrence, as I am informed and as witnesses testified that were called, at that hour of the day and at that time of the year. It came up in quite a sudden gust from the mountain and blew in exactly the opposite direction from which they had planned. Of course that had exactly the opposite effect from what they had planned to have, and the result of the sudden changing of the wind was the cause of the fire getting away from them, together with the fact that the Kaumakapili Church steeple caught on fire and they diverted one or two of their hose lines from the protection of the district that was burning for the purpose of extinguishing the fire on that church, and in doing so the fire spread to the building that was situated behind the church and thus got beyond their control.

Senator FOSTER. Did they, before starting this fire, have the fire department on the ground?

Mr. SILLIMAN. Everything was in readiness.

Senator BURTON. All of block 15 except the church was condemned?

Mr. SILLIMAN. Yes; but not ordered burned; the order included only a portion of the block, it included only the portion toward Nuana street, and did not include the other half of block 15. It got away from them and got into the other portion that was condemned.

Senator BURTON. After all, the burning was the cause of insufficient fire protection? Is that not true?

Mr. SILLIMAN. Not according to the testimony, and I am perfectly frank in this matter. I have no special connection with them, but the testimony of the water commissioners was that their water supply was ample that day and that they could have kept it within their limits except for the changing of the wind and the catching on fire of the steeple and the diverting of two hose, which enabled the fire behind to get away from them. Why, when the fire got beyond their control it burned one of their engines.

Senator MITCHELL. Were the buildings on this block 15 that were ordered burned—did they extend up to and connect with the buildings that were not ordered burned?

Mr. SILLIMAN. They did substantially; there was an alleyway between.

Senator MITCHELL. What time of the day was the fire started?

Mr. SILLIMAN. Eight o'clock in the morning.

Senator MITCHELL. Was it expected by the fire department that they could burn down one-half of the block and save the other half?

Mr. SILLIMAN. They had done it in one or two other cases, and they had every reason to believe that they could do it.

Senator BURTON. It burned all of block 15?

Mr. SILLIMAN. Yes; before it quit.

Senator MITCHELL. Including the church?

Mr. SILLIMAN. Yes, sir; it burned a portion of block 15 considerably after it burned the other part on the other side. The wind was bearing from the mountain toward the sea and the fire was spread over around the church, and from there across to the adjoining blocks long before it burned the back part of the block 15.

Senator MITCHELL. You attribute the burning of the buildings which were not ordered burned, and which the fire department and the board of health did not intend to burn, to the fact of the sudden and unexpected changing of the wind, for that time of the year?

Mr. SILLIMAN. Yes, sir.

Senator BURTON. Kukui street runs north and south?

Mr. SILLIMAN. Yes, sir.

Senator BURTON. The wind changed from the north to the south—is that it?

Mr. SILLIMAN. It came that morning from what we call a south wind; then it switched around and bore from the northeast.

Senator BURTON. From the mountain?

Mr. SILLIMAN. Yes, sir.

Senator BURTON. Have you any firemen here that are paid a salary?

Mr. SILLIMAN. All our department is paid. I was asked to inspect for the purpose of finding out just what the condition of a certain block 10 was; to find out what personal effects were left on block 10; and in going in there to inspect for the purpose of ascertaining what personal effects had been left on the premises, and in going through the carpenter shop of a man named Ah Lee I saw in one of these rooms four dead rats on the floor that died from the plague, and these were right on top of the floor.

Senator BURTON. Did you find anything?

Mr. SILLIMAN. Yes, sir; in order to find out what personal effects had been left there and make an inventory of what was about to be burned; that shows the extent of danger in going in there.

Senator MITCHELL. Do you represent many of these claimants?

Mr. SILLIMAN. Only a very few; only those of the clients of our office; not more than 10 or 20.

Senator MITCHELL. Would you have any objection to stating your arrangement as to fees?

Mr. SILLIMAN. We have none; they are clients of the office, and they simply asked us to present their claims for them.

Senator MITCHELL. You have no understanding as to a pro rata or anything of that kind?

Mr. SILLIMAN. No. As a matter of fact we understood that other law firms are charging $6\frac{1}{2}$ per cent, and we thought we would charge that.

Senator MITCHELL. Six per cent of the amount collected?

Mr. SILLIMAN. Six per cent of the amount collected.

Senator MITCHELL. Nothing, if nothing collected?

Mr. SILLIMAN. No such arrangement made; there were awards made in every case we had, and they simply brought them in with their business, and it is our intention, after we heard that $6\frac{1}{2}$ per cent was what other firms were charging, to charge the same.

H. A. BIGELOW, sworn:

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. BIGELOW. H. A. Bigelow; occupation, attorney; age, 29; residence, Honolulu.

Senator MITCHELL. What is the name of your firm?

Mr. BIGELOW. Kinney, Ballou & McClanahan.

Senator MITCHELL. Kindly state whether your firm represent many claims.

Mr. BIGELOW. All the Japanese claims, with a few exceptions; in round numbers, about 2,600 claims.

Senator MITCHELL. Have you any objection to stating your arrangement as to fees?

Mr. BIGELOW. I have no objection to stating it in general terms.

Senator MITCHELL. Of course, we dislike very much to inquire into your private business, but it is a question that has been raised at Washington by men who will have to pass upon these claims, and if we can throw any light upon it we will be glad to do it.

Mr. BIGELOW. Our arrangement was to receive not less than $6\frac{1}{2}$ per cent, which we understood was the rate settled on by a number of lawyers, in the event of the awards reaching a certain amount—\$200,000. In the event of the awards reaching more than that, our proportion was to cease and we took a lump sum.

W. AUSTIN WHITING, sworn:

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. WHITING. W. Austin Whiting; age, 47 years; occupation, lawyer.

Senator MITCHELL. How long have you practiced law in these islands?

Mr. WHITING. Twenty-one years, with the exception that a part of the time I was on the bench.

Senator MITCHELL. You represent a large number of these claimants, do you?

Mr. WHITING. Thirty-three hundred and twelve in number.

Senator MITCHELL. You represent some of the larger claims?

Mr. WHITING. Large claims and small claims.

Senator MITCHELL. Have you any objection to stating to the committee what your arrangement is in regard to fees?

Mr. WHITING. No, I have not. Mr. Paul Neumann, who died July 2, 1901, was engaged in these matters for quite a while, and I was assisting him, without any arrangement whatever. He made an arrangement of 6½ per cent as attorney's fees, as I understand it. It was an arrangement that was made, and on his death myself and Mr. W. J. Robinson, who is now circuit judge here, carried on the arrangements of Mr. Neumann; and I would state that on 2,645 claims, arranged, as we call it, by the Chinese consul, that there has been an additional expense which would bring the commission up to 10½ per cent. That would cover all charges. In explanation of that, the claims were prepared to be sent to Washington to the Chinese minister, and then they were repurchased in a certain way for the commission; then there were other necessary expenses in passing through the consulate, and in having to employ clerks, identification, etc., that brought up the proportion to 10½ per cent.

Senator MITCHELL. Can you state what proportion, if any, of the claims you represent are assigned claims?

Mr. WHITING. Oh, they are in the names of the claimants, with the exception where the people were deceased, and we took out administration for that purpose. I know of no assignment, except such as has been made to protect creditors.

Dr. CLIFFORD D. WOOD, being first duly sworn by the chairman of the subcommittee, testified as follows:

Senator MITCHELL. Doctor, state your name, age, residence, and occupation.

Dr. WOOD. Clifford D. Wood; physician; age, 42; residence, Honolulu.

Senator MITCHELL. Doctor, state what position you have held here in connection with the board of health, and when.

Dr. WOOD. I have been a member—at least I am not a member now—I was a member of the board of health, previous to 1900, for something like five years; I don't remember exactly.

Senator MITCHELL. Were you present at the time of the fires referred to here?

Dr. WOOD. From January 5, 1900, to August 1, 1900, I was president of the board of health. At that time I resigned not only the presidency, but my position as a member.

Senator MITCHELL. State briefly, in your own way, what you think is important this committee should know in regard to these claims.

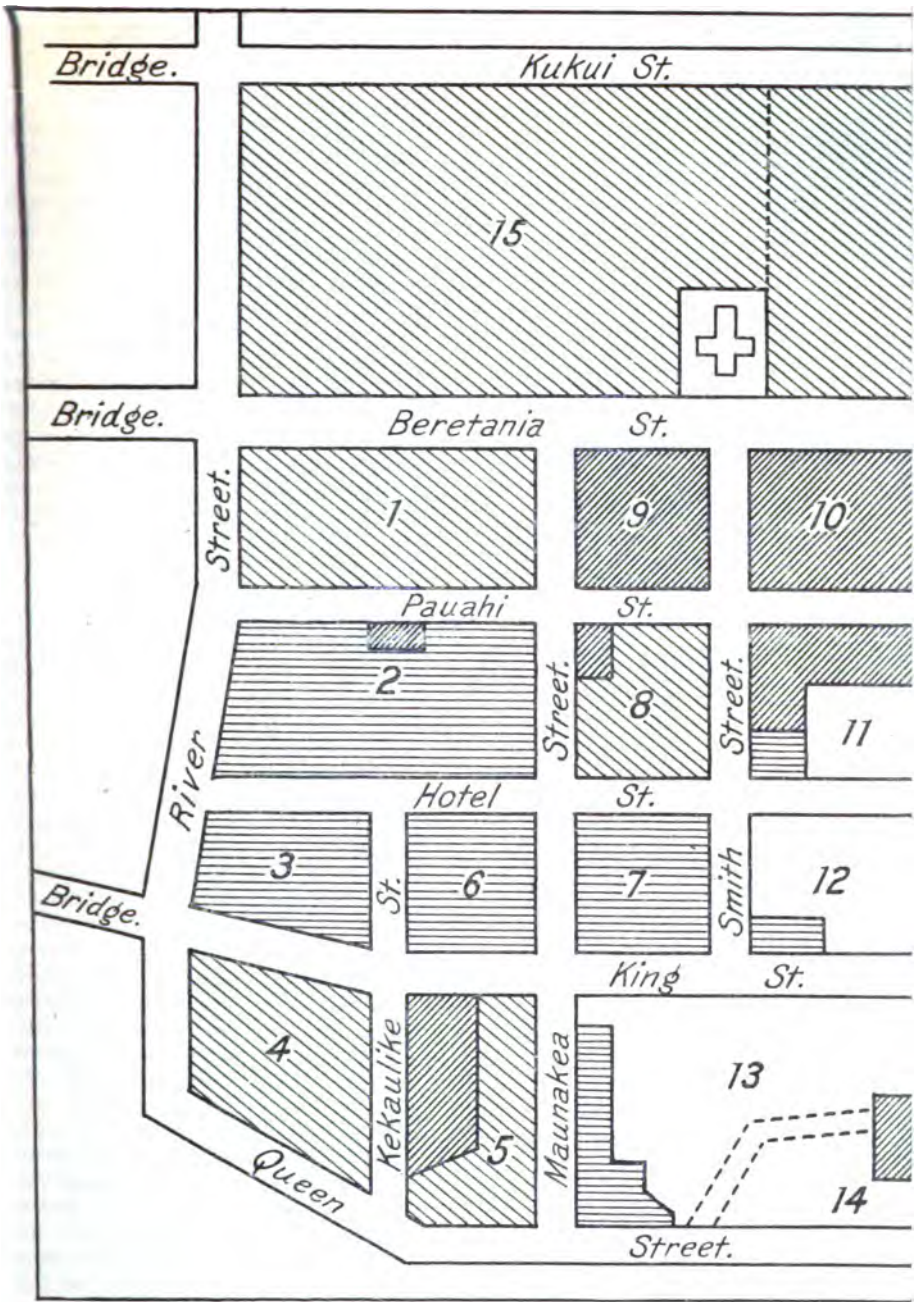
Dr. WOOD. It was stated to me by some of the people who have been interested and have kept in touch with the claims that the committee were in search of information, or would be glad to have information on a few points which they thought I could supply. I have not had time to go through the mass of material and make a written statement, but I have made some notes which I can refer to if you wish, and have written something in pencil which I can read from.

Senator MITCHELL. You can read from your notes.

Dr. WOOD. I will state that the map which I handed to Senator Burton was drawn up by me for the reason that I was told that the committee were a little uncertain, and desired information upon the subject of what portion of property destroyed at the fire of January 20 and other sundry fires was property which had been condemned, and was deliberately destroyed by the board of health; and also what portion of that property was property which had been condemned, but had not as yet been destroyed, or ordered destroyed; and what portion of it was property not condemned, and was burned on the same day on account of its proximity to the fire. The map not only gives that information, but it also gives the limits of what were called the quarantine district, and also as Chinatown—gives the section of the country inside of River street, Kukui street, Nuuanu avenue, and Queen street, which comprises the quarantine area, comprises Chinatown, and the portion of Honolulu which was put under quarantine at the very beginning of the plague, and was kept under quarantine until the fire of January 20 destroyed the property inside, and from which the inhabitants remaining there were removed. I offer this as Exhibit A to my statement.

The first case of plague in Honolulu was reported on the morning of December 12, 1899—a young Chinaman employed by Wing Wo Tai, on Nuuanu street, between Merchant and King streets. Before night four other cases were reported, three of whom had died on the 11th, the day before the plague was reported, and one on the 12th, the day upon which plague was reported. These first five cases were all boys dead; these cases were all traced to the same locality in Chinatown—the district known as Chinatown in Honolulu previous to the fire of January 20, 1900, and occupied a compact and almost rectangular area, directly adjoining, and in fact composing a part of the main business section of the city. It was bounded by River, Queen, Nuuanu, and Kukui streets, and its population was overwhelmingly Asiatic.

The vital difference between the business section westerly of Nuuanu avenue (Chinatown) and that east of Nuuanu avenue (the American and European section) lay in the fact that the Asiatics lived as well as did business in their section, while the Americans and Europeans did not. The city of Honolulu before the plague epidemic was absolutely unsewered. All waste of every description—that is, laundry water, kitchen waste water, the washings from livery stables, as well as human excrement—was received in cesspools. In the outer districts, where the population was not crowded and where there was a sufficient depth of soil with its understratum of pervious black sand, this was not unsafe; but in the congested down-town districts, where, owing to its proximity to the sea, there was little depth of soil and no underlying stratum of black sand, but in its stead there is an impervious coral stratum, conditions were radically different. With this understanding one can readily appreciate why the fact that the Asiatics lived in their business section and the Americans did not made a much sharper dividing line between the two sections than that formed by Nuuanu avenue, the street separating them. A person passing along one of the streets in Chinatown and seeing only stores and buildings fronting upon the street could have no conception of the condition of things behind those stores in the hearts of the blocks; and still behind respectable appearing stores and shops facing the streets the Asiatic population had simply bred filth and wallowed in it as only Asiatics can and live. The entire



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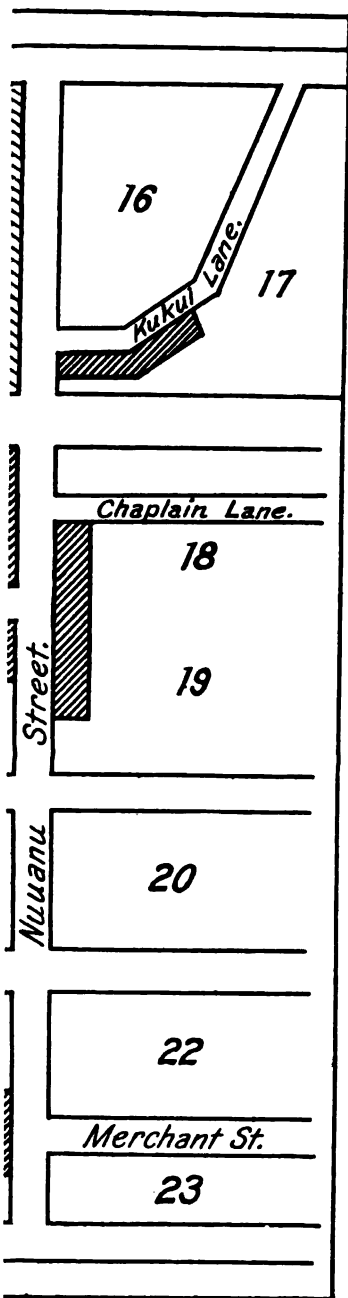


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of January 20, 1900.

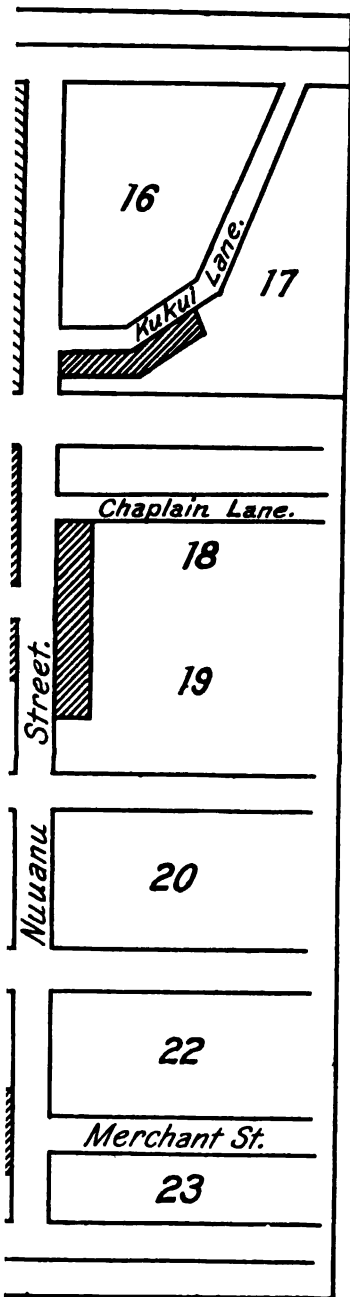
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center of the blocks, of which the stores facing the street upon four sides formed a square, in a large measure were filled up with extensions, lean-tos, shanties, privies, stables, and chicken coops closely crowded together, and even the narrow, crowded passages between were in many cases roofed over, so that the ground in most blocks was practically a stranger to the sun.

Under the conglomeration of structures were the cesspools, receiving from day to day and retaining from night to night the waste of thousands of human beings, and some horses, dogs, and chickens. In most cases the floors were directly on the ground, so that there was no ventilation under the houses. As many of the cesspools were overflowing the soil, consequently the floors were covered with filth. Cesspools were hidden under floors and in other inaccessible places, consequently many of them were never emptied. Many of them were uncovered, consequently the foul gases came up through the floors and into the houses. Plague lives and breeds in filth, and when it got into Chinatown it found its natural habitat.

Immediately upon the report of the first case of plague a meeting of the board of health was called, and before night the entire district of Chinatown was quarantined and under military guard. Inspectors were appointed and sent into the district, and a general cleaning up and disinfection was ordered and begun; all interisland vessels were held over until further orders. Five post-mortem examinations were made upon the first dead, and doctors and surgeons were at work upon the cases. As soon as plague was suspected, and long before it was proven—only two or three days—the authorities began an energetic and systematic effort to prevent its spread outside of Honolulu to the different districts of this island and other islands of the group, to the mainland, or other countries, and this was continued conscientiously and persistently until the disease was stamped out, after three and a half months of untiring work.

Among the first persons to be notified on the occurrence of the first case were Surgeon-General Carmichael, of the Marine-Hospital Service, and Mr. William Haywood, American consul. Dr. Carmichael was present at the first and many subsequent autopsies, and was kept constantly informed of the progress of the epidemic. The interisland vessels were all sent out into the stream and required to undergo a seven days' quarantine before they were allowed to leave for the other islands. They were subsequently not allowed to approach within 100 feet of the wharves, and were compelled to load and discharge cargoes by lighter. Only certain necessary supplies were allowed shipment to the other islands, and all shipping was done under board of health inspection. Foreign vessels were not allowed to touch our wharves, but were kept from 6 to 10 feet away, and all cables were guarded by rat-proof guards. This was not for our protection, but for theirs. The crews of interisland vessels were compelled to remain on board, and as far as possible this course was carried out in the case of foreign vessels. Of course, our authority was limited with foreign vessels. By December 29 there had been nine cases of plague, and every one of which had come from the quarantined district. Early in the epidemic a sanitary commission, consisting of a few prominent citizens, was appointed to report upon the condition of Chinatown. They made a thorough investigation of the district, and upon the evening of December 29 Mr. George Carter, of this commission, read the report of the commission to the board of health. The following is taken from his report:



of January 20, 1900.


by fire of January 20, 1900.

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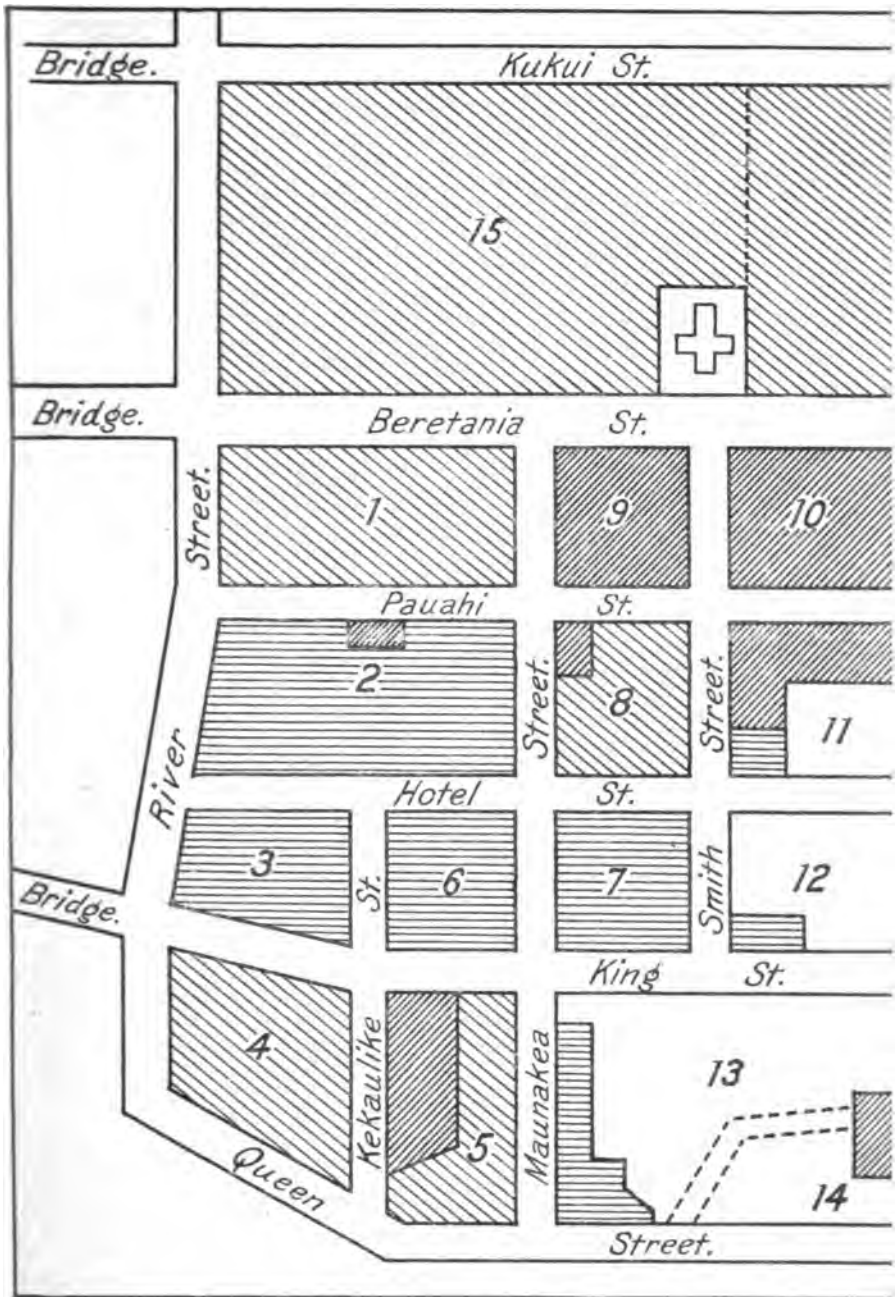
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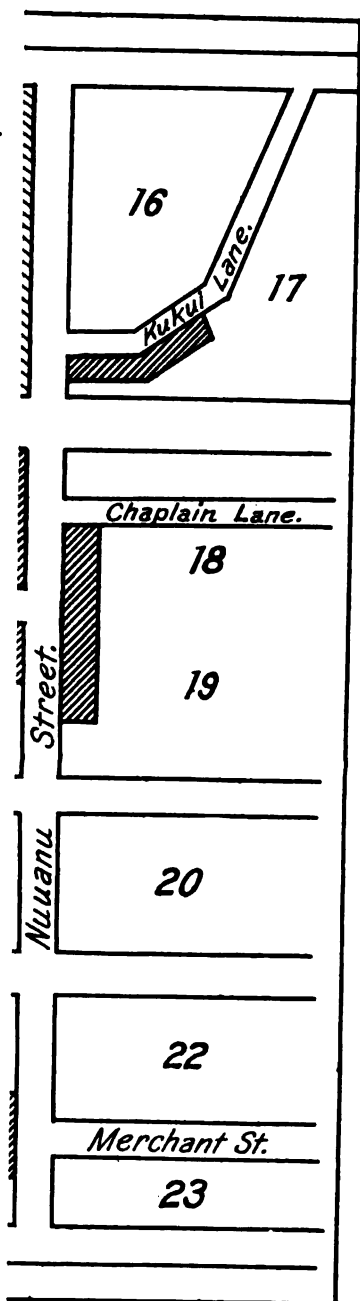


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This report is from citizens, not physicians, who formed one committee appointed by the board to go into Chinatown and investigate it as to its sanitary condition. (Reads:)

Your commissioners find a terribly congested district in a wretched sanitary condition. We believe a detailed report of the conditions, even with the names of the owners of the property, would be a revelation to the community. We are not surprised at the indignation expressed. When a citizen finds that he is living in a community where fresh meats are exposed for sale in shops within a few feet of which are cesspools reeking with filth, and from which come clouds of flies: where restaurants have cesspools with no covering over them than the kitchen floor, into which cockroaches crowd by thousands after a night of foraging over tables and dishes; where poultry is kept huddled for weeks in small coops, one above the other; where poi is manufactured and sold in shops smeared with fermented slime; where kitchens are built next to foul-smelling privies, and so arranged that a ray of light never enters them; where sinks are maintained with neither covers nor drains; where cesspools and privy vaults are crowded together or combined, and left open night after night to saturate the ground with filth and germs; where cesspools are found without ventilation of any kind except the crevices of the floor above, or perhaps a leakage vent ending within 2 feet of a sleeping apartment window, which is overcrowded at night with occupants, and where the ground is often without drainage—

Senator MITCHELL. How much longer will it take you to finish your paper?

Dr. WOODS. Some little time; I have several pages—

Senator MITCHELL. We will have to adjourn now until 2.30 o'clock.

AFTERNOON SESSION.

Dr. C. B. WOOD. The board of health and the community were confronted with the following conditions:

Plague had broken out in the center of town, in a section most crowded, most insanitary in the country, and consequently the most favorable for its rapid propagation. Quarantined and held in by military guard and compelled to remain in this pest-inflicted locality were 10,000 human beings, mainly Chinese and Japanese, with a sprinkling of natives.

The cases were increasing daily. It seemed only a question of time until the imprisoned population would be decimated. Meanwhile, there was the constant and increasing danger that the disease would escape the bounds arbitrarily set and spread throughout the city. Cases did occur in various other localities through the town. It was known that the infected locality contained thousands of plague rats, and a military guard could not confine them. It was not right to keep the unfortunate people long in a place of constant danger of infection, but they could not be allowed to spread the disease broadcast.

It was realized perfectly that the best method was to immediately remove the entire population to a sanitary locality and then deal with the infected district minus its inhabitants. This was impossible. There was no place in the country where 10,000 people could be housed. A locality owning the conditions which have been described, utterly incapable of being disinfected and rendered sanitary by ordinary means—by any means short of wholesale destruction by fire—this was the condition. After careful consideration, free discussion in open meetings, to which prominent citizens were invited and at which their advice was requested by the board, the board chose the method by fire as the surest and most thorough and most expeditious. Fire

could destroy the plague germs and kill the rats and open up to the purifying influences of sun and air, and would prevent any occupancy of the premises until a safe period of time had elapsed. The first sanitary fire occurred on December 31, by order of the board of health. A row of wooden buildings upon Nuuanu street, across from block 10, the hotbed of the pest, was burned to the ground, after the removal to the quarantine camp at Kakaako of the inhabitants. The personal effects of the inhabitants were gathered together, with the stock in the stores, and were taken in charge by the board, to be disinfectant and stored until such time as the owners were out of quarantine. This method continued by the board until the fire of January 9 compelled the removal of the entire remaining population, about 1,000. This estimate of the population remaining in the infected district January 20, when the fire swept the entire district, was made partially from this census and partially from the census of these people after they were removed. After we got them in different places we knew how many there were. Previous to their removal, January 11—the fire was the 20th—a census had been taken inside the quarantine district, with the following result:

Block 1.....	834
Block 2.....	893
Blocks 3 and 4.....	368
Blocks 5 and 6.....	548
Block 7.....	257
Blocks 8 and 9.....	417
Block 10.....	195
Block 11.....	210
Blocks 12 and 22.....	307
Blocks 13 and 14.....	70
Block 15a.....	617
Block 15b.....	1,547

These were the blocks which were inside the quarantine district. There were also some blocks under quarantine in this general district:

Blocks 16 and 17.....	310
Blocks 18, 19, and 20.....	379
Blocks 21, 23, and 25.....	60

This made a total population of 7,012. We estimated at the beginning of the period there were about 10,000 in the district of quarantine. Many of them at that time had been removed and taken to the different quarantine camps. We removed them just as fast as quarters could be prepared for them outside of Chinatown.

After one month of plague there had been certified 23 deaths and 3 more probable ones now in the hospital. On January 13 the total cases to date amounted to 34, with 27 deaths.

There are several questions that I was asked to give information to the committee on, and I have put them in the form of questions:

Were we panicky? With the means of the board of health and the community, were such extreme measures necessary?

We realized that we were a small community, depending entirely on commerce for our existence. We could not afford to have plague come permanent, as was threatened. If our sugar was refused in San Francisco, our commerce with the United States would be stopped, we did not succeed in preventing the spread of the disease to the other islands. If it reached the plantations, then it would be almost impossible to check it.

In 1885 we had a visitation of Asiatic cholera. By prompt and energetic methods we stamped it out in a short time. We believed the same methods with plague would have the same results. Our object was not merely to check it for the present, or a day or a week, but to effectually wipe out this disease from Hawaiian soil.

From the weekly bulletin published by the board of health, published January 20, in the morning, for one weekly period: Previously reported, 34 cases and 27 deaths; for the week ending January 20, 12 cases and 11 deaths; total, 46 cases and 38 deaths.

I make this statement to show that plague was rapidly increasing in the quarantine district.

The second question, Was it necessary to resort to fire? Was it necessary to burn more buildings than those actually plague infected? Was due care exercised in each case?

The plague is preeminently a disease of locality and place. The place is much more dangerous than the person himself. The urine and feces of plague patients contain the germs of the disease. Rats are particular carriers and disseminators of the disease. The conditions in Chinatown, already described, made it impossible to wipe out plague by disinfectants. The floors were old, and it was impossible to use any other means than burning. Because of the thin and often defective party walls, thin floors, general use of common privies, adjoining roofs, it was in many cases impossible to disinfect only that particular lot or shanty in which a man had died. The board of health in person visited and carefully inspected every building before it was condemned.

At a meeting on January 1 of many prominent citizens, including President Dole, the board was urged by numerous citizens to proceed on the infected district by fire.

January 8 the medical society of Hawaii, at a well-attended meeting, after free discussion, sent to the board of health the following recommendations:

To burn all structures in infected districts.

To clear the ground where such buildings stood, disinfect, and keep vacant for one year.

To furnish sanitary habitation for the people thus left homeless.

To filter the water supply and augment it.

To extend the sewer system.

Under the recommendation from the medical society we proceeded to the burning and proved the reasoning correct. It checked the epidemic.

In that connection, with the last stating of the burning of Chinatown, I offer a little schematic record made at the time that shows the course of the disease.

Senator MITCHELL. I will ask this question, Doctor: Is there any difficulty in determining as to the existence of plague?

Dr. WOOD. You can determine by examining the people who have it.

Senator MITCHELL. In any other way?

Dr. WOOD. At the very beginning of any epidemic —

Senator MITCHELL. How did you determine in this instance?

Dr. WOOD. By examining the bodies of those dead.

Senator MITCHELL. In any other way?

Dr. WOOD. To examine the bodies of rats.

Senator MITCHELL. Any possibility by examining a live person?

Dr. WOOD. Yes; by medical diagnosis. The inflammation of certain glands, temperature, action of the heart, swelling of the glands, and high temperature.

Senator MITCHELL. There are other diseases with high temperature and swelling of the glands?

Dr. WOOD. Other diseases have some symptoms of plague; other germs resemble the germ of plague. Those things taken alone would not determine, but—

Senator MITCHELL. What is the distinctive thing to determine plague?

Dr. WOOD. The plague bacillus resembles other bacilli. We take the whole thing. A diagnosis is not generally made with the first case. We wait for other cases. This furnished five the first day.

Senator MITCHELL. Five cases; and it was after thorough examination of those cases you concluded it was plague?

Dr. WOOD. Yes, sir.

Senator MITCHELL. Was there no doubt left at all in the minds of the board?

Dr. WOOD. No, sir; I can answer that question positively.

Senator FOSTER. How many cases of plague the week ending the time you commenced burning?

Dr. WOOD. We commenced burning on December 31. From the time it started, from the time it was recognized, at any rate, which was December 12, until December 31, I have the number here. On December 29—there were other cases after that; I can tell that; not very many—10 or 12.

Senator FOSTER. Well, immediately after the fire, was it stamped out?

Dr. WOOD. Not stamped out, but it decreased right away. There is the schematic record.

Another question which I have been asked, Was money spent recklessly, improperly? That does not pertain to the fire claims, because we paid all those bills ourselves. I have heard statements made that money was spent recklessly and improperly. For that reason I desire to say a few words on that subject.

Early in the epidemic—in January, 1900—a finance committee was appointed by the board of health, the personnel of which was: C. M. Cooke, J. B. Atherton, and Mr. T. Rane Walker. They are names of gentlemen in very high standing in the community in a financial way and other ways. This committee was appointed to audit all accounts. Those accounts are still in existence. As showing some of the expenses, a large force of guards had to be kept up for many weeks for the purpose of guarding localities. It began to come outside of the quarantine district and had to be guarded—the quarantine camps, wharves, teamers, and the warehouses and other places, merchandise stores. An immense amount of handling, crating, and disinfecting merchandise was done in order to salvage the goods taken out when the inhabitants removed before the buildings were burned. A large force was employed for sanitary work and inspecting. The entire burned districts and other localities where plague had been had to be fenced in. A great deal of that work was done in the burned district after the fire, getting it cleaned up and leaving it exposed to the sun. There was a corps of physicians. During the epidemic quarters were erected

for 10,000 persons, whom we also furnished, in many instances, with new clothing, fed, or otherwise provided for them for a number of weeks.

Quarantine camps were built, and a large part of the expenditure was in building quarantine camps. The population was not removed as rapidly as it could be, because there was no other place to take them. Mr. Young was at the head and chairman of a committee to select a locality and erect barracks or quarters for these people, removed as expeditiously as possible. There were other barracks selected. An entire new set of buildings was required. A pest house had to be built for a hospital, and large warehouse for storing goods which were salvaged. The Kalihi camp was an immense institution. I ask you, Senators, to go and see that camp and see where the money was put. That camp was prepared to receive all the people remaining in Chinatown. They were all eventually removed there. It was not built at the time of the fire of January 20, or all would have been removed there. It was only capable of accommodating 1,000 more than already there. The remainder of the people, being suddenly burned out, had to be quartered around town. There was a quarantine station in the church, Kawaihau Church, with 2,000, and 1,200 in the drill shed, and other quarters were provided for others. Kept imprisoned, they had no means of sustenance, many had to be clothed, and all furnished by the board of health at the expense of the board. There were many other items of expense which I can not recollect. It became necessary for the board to meet if the proper record were to be kept. It was decided—the appraisers were another item of expense. They were to be paid, I believe, \$750—three of them, at \$250 apiece. The buildings were all photographed. The photographs were another item, \$2,100—\$2,000, anyway.

Senator BURTON. For photographs?

Dr. WOOD. \$1,400 for photographs themselves.

Senator MITCHELL. That was paid for by the Territory?

Dr. WOOD. Yes.

Senator MITCHELL. No question of that here now.

Dr. WOOD. No question of that here now at all. I would say early in the epidemic before the fire occurred, at any rate on January 15, the citizens of Honolulu organized a citizen's committee which was given power by the board of health. They did an immense amount of work. They districted the entire city, reaching from Diamond Head to Kalihi and from up the valleys and all outside districts. They were respectable, responsible, reputable citizens. There is a map of the district and a list of the committee on the back of it. I will submit it with the other evidence.

I would like to emphasize again the fact that the board of health and the community were not alone trying to meet and check the progress of the epidemic and allow it to recur again next year or any time after a few months. They wish to entirely stamp the disease out. Not only were their efforts directed toward saving themselves, but other interests, by having the epidemic stamped out; they also directed at the same time attention to other communities. We tried to protect not only ourselves, but tried to quarantine the disease here and keep it from any place else.

The personnel of the board of health was Hon. H. E. Cooper, president (secretary at the beginning); Dr. Day, who is not now here, but a

prominent physician; Dr. Emerson another prominent member. Those two physicians with myself made the medical members. There were seven members. The other members were the Hon. F. M. Hatch, former Hawaiian minister to Washington; Mr. George W. Smith, and Mr. F. J. Lowrey. They were men known in the community and both at the head of large businesses.

That is about all I have to say.

Secretary HENRY E. COOPER, recalled.

Hearing the testimony of this morning, it occurred to me that a suggestion had been made if Congress should pay or make an appropriation for paying these fire claims, the question of where the money would be placed was pertinent to the issue. It was brought out the percentage the lawyers might receive for presenting the claims. I have also heard it stated that the claimants would receive but a small amount of money in any case. The banks, lawyers, agents would be paid the largest amount. It appears to me that that is immaterial for this reason, that the Territory, the taxpayers have now become responsible to the claimants by virtue of the act of the legislature and the findings of the fire claims commission.

Senator MITCHELL. You understand the Territory assumed the payment of these warrants?

Mr. COOPER. Unquestionably it is a debt of the Territory. If Congress provides money for the payment of amounts warranted by the commission it is for the relief of the Territory as such that the money goes. We seek as a body politic of the Territory assistance from Congress. For that reason it is immaterial where the money goes to.

Governor SANFORD B. DOLE, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Governor DOLE. Sanford B. Dole; 58 years of age; residence, Honolulu.

Senator MITCHELL. You are governor of this Territory?

Governor DOLE. Yes.

Senator MITCHELL. What position did you hold under the Republic?

Governor DOLE. President.

Senator MITCHELL. You are a native of the islands?

Governor DOLE. Yes, sir.

Senator MITCHELL. Lived most of your life here?

Governor DOLE. Yes.

Senator MITCHELL. What other positions have you held except those stated?

Governor DOLE. Justice of the supreme court.

Senator MITCHELL. Did you hold any position under the monarchy?

Governor DOLE. Yes.

Senator MITCHELL. What were they?

Governor DOLE. Justice of the supreme court.

Senator MITCHELL. Any other position?

Governor DOLE. None of any importance. None that I think of, except possibly some temporary appointment. I was in the legislature in two sessions under the monarchy, 1884 and 1886.

Senator MITCHELL. Governor, how many bills were vetoed last session, if any?

Governor DOLE. I don't know exactly; three or four; perhaps more.
Senator MITCHELL. Do you recollect any of them?

Governor DOLE. Yes; one was a bill in regard to releasing the tax on female dogs; then there was a bill for the establishment of county governments that came very late—it came in a few hours before the session adjourned. It was a very large document; it was impossible to examine it, and such examination as I could give led me to allow it to die through time.

Senator MITCHELL. What is the law in regard to—what is a pocket veto?

Governor DOLE. If a bill comes to the governor less than ten days before the termination of the legislature it dies if it is not signed.

Senator BURTON. How much time did you have to sign it after it was presented after adjournment?

Governor DOLE. After adjournment?

Senator BURTON. Yes.

Governor DOLE. I think I had about three hours to examine it before the session expired.

Senator BURTON. After that you could sign it any time within ten days?

Governor DOLE. I think I could. It was a question which was doubtful, and there was one bill which came in which seemed important in the same way, which could not be, which was not signed before the session expired, which I did sign after the session expired. That was a bill changing the law in regard to the terms of the supreme court.

Senator MITCHELL. What is your view in regard to the propriety of municipal and county corporations? Have you looked into that question; studied it?

Governor DOLE. Yes, I have; some. I am in favor of the passage of a bill which shall state, which shall enact an organic law for all county governments, leaving it to each division which shall be specified as a county to adopt it as they see fit and when they see fit to organize themselves; not to have the legislature compelling them to organize county governments until they themselves take the initiative.

Senator MITCHELL. You would not advise that Congress compel the Territory to provide for county governments?

Governor DOLE. That is my position.

Senator MITCHELL. That is, you would not advise that. What do you say in regard to the Territory and public lands? Would you leave the control to local government or would you leave it to the Federal Government?

Governor DOLE. I would leave it under control of the Territorial government.

Senator MITCHELL. Why?

Governor DOLE. Because the Territorial government is in touch with conditions here. The authorities at Washington would be at a great disadvantage administering the public lands here from being so far away from us and it being difficult for them to be informed exactly and get posted in regard to conditions.

Senator MITCHELL. Governor, do you know what is the average price at which public lands sell in this Territory?

Governor DOLE. I do not exactly. It is probably between \$3 and \$10 an acre.

Senator MITCHELL. There is provision for putting them up at auction?

Governor DOLE. Yes; under certain methods the lands have to be put up at auction. There are certain other methods of disposing of them. They are priced. Certain lands are not priced at all, but are furnished to settlers on their applying for them and paying some fees for the papers.

Senator MITCHELL. There are a great many of the public lands leased up there?

Governor DOLE. Yes.

Senator MITCHELL. To planters?

Governor DOLE. Yes.

Senator MITCHELL. What is the average price of a lease of good cane ground in this Territory; how does it run?

Governor DOLE. I—of course I do not know exactly. I could find out these things if I had known you were to ask. In the neighborhood of \$2.50 or \$3 an acre.

Senator MITCHELL. A year?

Governor DOLE. Yes.

Senator MITCHELL. How long do these leases run generally?

Governor DOLE. There are a great many leases that have come down from the monarchy; some of them long terms, fifty years; some thirty, some ten to twenty years. These are expiring from time to time, and under the Republic of Hawaii they could not be leased again for over twenty-one years. Under the organic act agricultural lands can not be leased for over five years.

Senator MITCHELL. Governor, you are acquainted with the Portuguese who leased the crown lands, are you not?

Governor DOLE. Punchbowl?

Senator MITCHELL. That is, government lease expires in about eight or nine years.

Governor DOLE. Thirteen years, I think; no, eleven years.

Senator MITCHELL. What would you advise, Governor, in reference to those people who have these lands; what do you think ought to be done for their benefit and for the general good?

Governor DOLE. I should think some provision by which they could obtain a new and longer lease at the termination of the present crown lease would be the most practicable thing to do.

Senator MITCHELL. A great number of them have little homes on these lands?

Governor DOLE. Yes; they have done very much indeed.

Senator MITCHELL. Very good shape, are they not?

Governor DOLE. Yes.

Senator BURTON. Why not provide for them to get a title?

Governor DOLE. Well, that would be all right.

Senator BURTON. Better than a lease, would it not?

Governor DOLE. Yes; perhaps it would be. It might not be so easy for them.

Senator BURTON. Why not issue to them?

Governor DOLE. Well, of course, if they had to buy them it would be harder for them to raise the money than to lease them.

Senator BURTON. That would depend on the price.

Governor DOLE. Of course the price would be more than the annual rent.

Senator BURTON. Governor, are you in favor of municipal government as well as county government for the islands?

Governor DOLE. You mean for cities?

Senator BURTON. Yes.

Governor DOLE. I think so—eventually. I—if the—it is rather hard to bring about satisfactorily. It is a question that requires a great deal of study; but I recognize the situation, the desire of the community for it, and I think it must be met. If a city government of a simple character can be adopted I think it will work well enough.

Senator BURTON. If you had had a city government you would not have had the horrible condition depicted by Dr. Wood—if you had had city government you would not have had such a condition of things in 1899 and 1900?

Governor DOLE. I don't know. That would depend on the city government very much.

Senator BURTON. You don't think any community with an opportunity to vote would permit such a horrible condition of things as that right in the heart of the city?

Governor DOLE. Well, that condition of things existed with the voting privilege for a long time. Of course the voting privilege was not for local municipal government.

Senator BURTON. No voting privilege here now at all except to elect members of the legislature?

Senator FOSTER. And Delegate.

Senator BURTON. That don't count. I mean locally.

Governor DOLE. Yes; that is all.

Senator BURTON. Administration of this community under the monarchy, provisional, republic, and United States Government, and it ran right along up until you had bubonic plague in that condition?

Governor DOLE. Yes.

Senator BURTON. Well, Governor, do you think, as I said before, that such conditions, things as that could be permitted to last any length of time in a community where the people voted?

Governor DOLE. I suppose the tendency would be to improve the situation. I believe some cities have very bad places in them where they have municipal government.

Senator BURTON. I don't think I have ever visited any that was described like that was. Don't you think it is better to have all officers here elective, like we have in our Territories on the mainland, rather than appointed?

Governor DOLE. No; I do not think so.

Senator BURTON. For what reason?

Governor DOLE. We tried an experiment in that direction several years ago, in which road boards were created through the districts of the Hawaiian Islands. Each district had the right to elect a road board of three men. It worked very well for a few years, but in some districts it gradually got into the hands of inefficient men. In Hilo, for instance, a case in point, the road board there was composed of men at one time who were inefficient, and a large amount of money was appropriated by them, passed through their hands, and no material results were noticeable. It began to be a scandal and a matter of great dissatisfaction to the district of Hilo. There were other places in the islands the same way, but not to the same degree. The legislature revoked the privilege and adopted a system of having them appointed.

Senator BURTON. When was that revocation?

Governor DOLE. Road boards were first created in 1887 or 1888. The law was changed a few years later; I don't know exactly when.

Senator BURTON. Changed under the monarchy?

Governor DOLE. Under the monarchy it was first established.

Senator BURTON. And changed under the monarchy?

Governor DOLE. I think so; I am not sure.

Senator BURTON. From that you come to the conclusion that it is better for the officers of the Republic to be appointed rather than elected?

Governor DOLE. Yes; I think the system of federal government works better here than the system of America.

Senator BURTON. Elective?

Governor DOLE. Than the system of American town.

Senator BURTON. When you say federal, you mean government by appointment rather than by election?

Governor DOLE. Except, of course, the executive.

Senator BURTON. Well, of course, the executive and secretary appointed as now.

Governor DOLE. The president is always elected. He appoints his secretary.

Senator BURTON. I mean local government; I am not talking about general government.

Governor DOLE. I say the general system of federal government is what I think is better for these islands.

Senator BURTON. Well, you mean you would have all offices elective?

Governor DOLE. No; I would not.

Senator BURTON. What do you mean by the system of federal government?

Governor DOLE. The President of the United States is elected. He appoints secretaries, judges, postmasters, and, I think, all officials are appointed by him and are his subordinates.

Senator BURTON. That is what you mean by federal system?

Governor DOLE. That is what I mean.

Senator BURTON. You mean that you think the officers had better be appointed?

Governor DOLE. All except the governor.

Senator BURTON. The governor elected?

Governor DOLE. No; after it became a State.

Senator BURTON. After it became a State would you have the Federal Government appoint the minor officers?

Governor DOLE. No; have the governor appoint them.

Senator BURTON. If I understand you, you believe in officers being appointed here rather than elected, after the governor is elected?

Governor DOLE. Yes.

Senator BURTON. After it becomes a State?

Governor DOLE. Yes.

Senator BURTON. Well, the Territorial governor is appointed by the president now.

Governor DOLE. I suppose so. It is the Territorial system.

Senator BURTON. In all other respects it would be unlike the Territorial system on the mainland. You would have them appointed?

Governor DOLE. I think so. I think it would work better here—
results.

Senator BURTON. For what reason?

Governor DOLE. One reason is from our experience in regard to road boards.

Senator BURTON. That is not a reason; that is simply an example. What is the philosophy of it? Is it not this, the people of these islands are not capable of electing—of exercising the elective franchise in general; isn't that it?

Governor DOLE. I think there are a great many of them who find difficulty and would be unequal to the task of electing all executive officials.

Senator BURTON. Well, is that it?

Governor DOLE. A great many are equal.

Senator BURTON. Of course there are a great many people here able to vote intelligently, but the majority of the people of the islands are not capable of exercising the elective franchise in general.

Governor DOLE. No; I don't say so.

Senator BURTON. Majority of them incapable of doing it?

Governor DOLE. It is a very general phrase, the word in general. They use their intelligence, of course, in electing members of the legislature.

Senator BURTON. I will try to make myself clear, Governor. As I use the term I use it relatively, of course—not incapable of giving as good government by election as by appointment?

Governor DOLE. I think, Mr. Burton, in the United States, if they elected the Secretary of State, judges of the Supreme Court, postmasters, marshal, all of the important officers, I believe the results would not be equal under the present system.

Senator BURTON. But, Governor, you seem to occupy your mind all the time talking about the Federal Government. I mean these islands. You can't compare that with the Federal Government.

Governor DOLE. I do compare it. I submit the principle is the same.

Senator BURTON. Oh, then, you think the same principle and system that governs in the Federal Government on these islands—

Governor DOLE. Will produce better results, as it does in the Federal Government.

Senator BURTON. Therefore, if the officers were elected, you would not be having as good a government as now—appointed?

Governor DOLE. I think it is a question whether you would.

Senator BURTON. That is what I mean by being intelligently able to exercise the franchise. Now, don't you know that that doctrine is wholly un-American?

Governor DOLE. No; I don't. It is the foundation of the Federal Government. That is American.

Senator BURTON. But, Governor, don't you know that it is wholly un-American applied to Kansas, Oklahoma, or Arizona?

Governor DOLE. I know it is not applied to those places.

Senator BURTON. Then it is wholly un-American?

Governor DOLE. You can adopt that conclusion if you wish.

Senator BURTON. I am asking you if you do not think so?

Governor DOLE. No. It might be applied to advantage in America.

Senator BURTON. Is it not wholly un-American to have a Territory within the United States Government where the people are deprived of the right of exercising the local franchise. Is that not wholly un-American?

Governor DOLE. It is not the general practice. I know that there is pretty good authority for it in the system of Federal Government. I can't be un-American. The principle is decidedly and strongly American.

Senator BURTON. Then you think it would be American to take away the franchise from the average voter of Kansas to vote for officers and say they shall be appointed by the governor?

Governor DOLE. If they wanted to do it I think it would be according to American principles; if they wanted to do it.

Senator BURTON. Getting back of the land laws, Governor. You have here the agricultural—they are classified as agricultural, pastoral—what other classifications have you? I can't recollect.

Governor DOLE. Wet land. I think that is all. One other.

Senator BURTON. The agricultural—

Governor DOLE. Divided into two classes and the pastoral divided into two classes. Forest lands and waste lands.

Senator BURTON. Well, now, Governor, you think that the Federal system, when it comes to lands, should not apply, but the local authorities should have charge of the public domain?

Governor DOLE. Yes; I think so.

Senator BURTON. Well, now, is it not more difficult for the office at Washington to administer the land laws in Alaska, and even Arizona, than it would be here?

Governor DOLE. No; I don't believe it is.

Senator BURTON. You will have a cable now in less than a year, and communication will be just as complete between here and Washington as it would be between Phoenix, or Guthrie, or any Territorial capital and Washington, would it not?

Governor DOLE. Yes.

Senator BURTON. Then, if that be true, don't you think it would be wiser to have the public domain here under the charge of the land office at Washington?

Governor DOLE. No; I think not.

Senator BURTON. For what reason?

Governor DOLE. There were some articles in the Harper's Weekly last year here, I think, apparently editorial articles, on the United States as a landowner, and the administration of lands in the West was commented on with a great deal—apparently a close acquaintance with conditions, and this instanced numerous cases in which the administration of the lands of the Federal system produced results which prevents bona fide settlers from obtaining lands and threw the lands in the hands of speculators. This man said that these laws, while they had done a great deal of good in their time, especially on the Western prairies—he made the remark that there was not a single land law of the United which should not be either repealed or amended. His acquaintance with the subject was apparently so close and accurate that the article made a great deal of impression on me, and if the article is true it would show that the United States had failed very seriously in the West, in the Far West, in administering its land system.

Senator BURTON. Well, is that the only reason that you have, Governor?

Governor DOLE. I think it stands to reason that a government in Washington would be unable, would be at a disadvantage, in man-

aging lands in this country, where the business is such that small land-owners and applicants for small pieces of land are—have to be—in daily touch with the office which has authority to go into their matters and to immediately respond; to immediately consider the question of land settlement and take them up and promptly push them to a conclusion; to have the discretion lodged here gives an advantage in the way of intelligent understanding of the situation of the people, of the applicants, and of the whole situation which would be, I think, impossible for the Washington authorities to have.

Senator BURTON. Couldn't that be done through land offices right here, like in Arizona right now?

Governor DOLE. Well, it could not be done as well.

Senator BURTON. You think not?

Governor DOLE. I think so.

Senator BURTON. Do you know of any community of the United States, under the land laws, that has allowed such a large amount of land to fall into the hands of speculators and plantations, relatively, as has been allowed in these islands?

Governor DOLE. I can not talk very definitely on the point, but my impression is that land speculation in the United States is infinitely beyond anything here.

Senator BURTON. In amount; but, Governor, also the amount of homes under our system is infinitely better beyond anything here, because of the size—what I am speaking about is the system.

Governor DOLE. In the islands, Mr. Burton, the land system after 1848 and up to 1860, in which the monarchy took considerable interest in the settlement of Hawaiian on small holdings, that interest dies away before the year 1860. From that time until 1880 and afterwards there was no land system here—that is, there was no land policy whatever—it was a haphazard policy. During that period the Government sold and leased land in large pieces. It has not existed since 1893 at all. There has not been, probably, a single piece of land sold to sugar plantations or speculators of any large size for the last nine or ten years.

Senator BURTON. Been leased, has it not?

Governor DOLE. Leased for short periods. Leased at auction always.

Senator BURTON. Governor, don't you think the Government should get out of the land business and have it owned by individuals?

Governor DOLE. No; I don't think so.

Senator BURTON. You think, Governor, that the Government ought to stay in the land business?

Governor DOLE. Yes. One reason is this: We have developed considerably a system of leasing lands, not only country lands, but town lots, as a means of revenue. It is an important part of our revenue and is increasing at all times, and I think it would be a prejudice to the Government to lose that. Of course, as the government grows the lands grow in value and the revenue grows.

Senator BURTON. The sugar business is growing. Why doesn't the government go into the sugar cane business?

Governor DOLE. It don't strike me as a very proper thing for the Government to do.

Senator BURTON. Well, for what reason? The production of sugar is an enterprise just like leasing and controlling lands, is it not?

Governor DOLE. No; it is a very different enterprise.

Senator BURTON. Well, it requires careful management and ability to run its business, does it not?

Governor DOLE. Yes; the business of selling goods and the business—

Senator BURTON. Selling goods, running a bank; why not let the Government get into these businesses for the sake of revenue?

Governor DOLE. I think the Government has enough to do.

Senator BURTON. You understand the American system to get rid of the lands, constantly getting rid of the lands of the public domain? You understand that?

Governor DOLE. I understand that; but I understand it is very much a question at present.

Senator BURTON. Who questions it?

Governor DOLE. The men from the West; very much. The question of the Government going into the business of leasing lands is developing in Texas, Montana, Wyoming; the feeling there in that direction is growing strongly.

Senator BURTON. On account of the large cattle corporations who want the right to keep settlers from going in there.

Governor DOLE. No, I don't think it is. I think it is in order to prevent looseness which has been going on heretofore.

Senator BURTON. What looseness do you speak of?

Governor DOLE. Well, in which a great deal of land is held there by people with no title whatever.

Senator BURTON. Where?

Governor DOLE. In the West.

Senator BURTON. Public domain? You mean how?

Governor DOLE. A man gets a few thousand sheep and runs them on the land, perhaps cattle. He has not even a lease.

Senator BURTON. Because you and I can settle there any time—it is open to settlement—that is the reason. When anybody wants to settle he can do it anywhere in the United States.

Governor DOLE. I believe not.

Senator BURTON. What part of it is withdrawn except for forest reservation?

Governor DOLE. I think the United States opened certain lands.

Senator BURTON. All.

Governor DOLE. No; I think only certain lands, surveyed lands.

Senator BURTON. All the lands are surveyed.

Governor DOLE. Surveyed by a system of triangulation, not in every manner.

Senator BURTON. Is it not surveyed in every sense by sections?

Governor DOLE. I don't know.

Senator BURTON. Don't you appreciate that it is the purpose and policy of the Government to get rid of lands; get out of the land business?

Governor DOLE. I know that is the policy of the Federal Government.

Senator BURTON. You still think—don't you think you would get more revenue, although indirectly, from taxing individuals—let them buy this property here, or corporations, so as to have individuals and corporations own the public domain and the Government go out of business, that they would get more from taxes than you would from the leases?

Governor DOLE. I do not know; I can not tell. Mr. Burton, the policy is to dispose of lands, not to large landowners, but to dispose of it as fast as it can. That corresponds to the American policy to that extent. In the meantime lands are leased in order to derive a revenue from them. As fast as we can find settlers for the land we will do it, except town lots, except business lots.

Senator BURTON. Why would you keep town lots, business lots? Why not let them be sold, so that private owners may have the land and the Government go out of the business? You would realize more from local taxation than you would from leases.

Governor DOLE. I think not. If you could convince us of that we would be in favor of it.

Senator BURTON. Governor, is it not the practice in this country, as well as in the mainland, that the most expensive enterprise on the part of anybody is government enterprise? That it costs about three times as much as the individual?

Governor DOLE. No; it does not cost this Government that much.

Senator BURTON. Do you mean that a corporation managed by any one or two or three of your most brilliant men here would not do more with that amount of money?

Governor DOLE. Yes; they generally do more, but not to anything like the extent you have named.

Senator BURTON. Isn't it generally acknowledged that everything costs about three prices when done by the Government as compared to the individual or corporation?

Governor DOLE. I don't know.

Senator BURTON. So that is it not wise for the Government to go out of business—out of all kinds of business and stay out and encourage the individual?

Governor DOLE. Well, that is what we are doing.

Senator BURTON. Then, I misunderstood you for a little while. I thought you thought we ought to keep the public lands, so as to have revenue.

Governor DOLE. Our policy is to hold onto business lots. In regard to agricultural and pasture land our policy is to sell that as fast as we can find settlers for it.

Senator BURTON. I didn't mean to ask you so many questions. I got into this accidentally.

Senator FOSTER. Governor, are these lands taxed—the leased lands that rents are collected from?

Governor DOLE. The country lands, what we call general leased, are taxed at their full value, but I think town lots are not.

Senator FOSTER. You take the Punchbowl lots up there—they are not taxed?

Governor DOLE. Probably not. The leases originally made under crown laws dating back from the monarchy. Undoubtedly they are not taxed.

Senator FOSTER. Well, about what is the aggregate paid in for leases in the islands?

Governor DOLE. I can't tell you exactly.

Senator FOSTER. Well, about?

Governor DOLE. The general leases for this last fiscal year, \$95,000. Then the other leases, right-of-purchase leases, Olaa and Puukapu land, that is \$6,000 more.

Senator FOSTER. Six thousand dollars? No such thing as a homestead in the Territory, filing a homestead and taking a piece of land?

Governor DOLE. Yes; we have what we call a homestead law, by which an applicant takes up a piece of land and holds it and that is his indefinitely as long as he uses it and as long as his family exists. If it is abandoned or his family die out, it reverts to the Government.

Senator FOSTER. Does he pay anything for the use of it?

Governor DOLE. No; nothing but taxes. Then we have right-of-purchase leases. A man takes a lease for twenty-one years. From three to five years after performing certain conditions he has the right to buy it under the original appraisement. Most of them do. There are other methods in use.

Mr. EMMELUTH. In regard to land matters I would like to say my recollection of the present homestead law is that—

Senator MITCHELL. Don't testify; ask a question if you like.

Mr. EMMELUTH. It was adopted in 1894, during the time of the provisional government. I would like to ask the Governor whether he recollects a conversation between us as regards the laws on which the act should be framed?

Governor DOLE. The land act?

Mr. EMMELUTH. Yes.

Governor DOLE. Between you and me?

Mr. EMMELUTH. Yes.

Governor DOLE. I do not remember it.

Mr. EMMELUTH. I remember a conversation in which we discussed the matter and I suggested the desirability—the Governor having submitted the bill which he proposed to bring in—I told him I considered it was too voluminous and could not be understood by an ordinary layman, and he asked me what I thought, and I told him a simple law providing that a man could take up land, live on it, cultivate it, and pay his taxes would fill the bill. I would state that I am—

Senator MITCHELL. If you are going to testify, you must be sworn.

JOHN EMMELUTH SWORN.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. EMMELUTH. John Emmeluth; residence, Honolulu; age, 48 years; occupation, tinsmith and plumber.

Senator MITCHELL. How long have you resided in the islands?

Mr. EMMELUTH. Twenty-four years.

Senator MITCHELL. You are familiar with conditions here, are you?

Mr. EMMELUTH. Yes; I am familiar, I think.

Senator MITCHELL. Do you desire to ask the Governor any further questions?

Mr. EMMELUTH. Yes, sir.

Senator MITCHELL. You can do so.

Mr. EMMELUTH. I would like to inquire, in connection with land matters, how many—whether the Waihiawa colony, is that your ideal what a colony should be, whether, as a proposition, that was not our idea when it was organized.

Governor DOLE. It was one of the colonies that have been established here. I have taken an interest in it. Whether it is my ideal or not, I hope it will be some time.

Mr. EMMELUTH. I would like to ask you the valuation originally argued to the colonists?

Governor DOLE. I think \$5 an acre.

Mr. EMMELUTH. Do you remember, at the time of the final disposition of the lands, what one brought at auction?

Governor DOLE. Yes; I have the last one. The last one that was put up was not under the system which was used in regard to the others. It was put up under what we call special agreement to sell—put up at auction on the installment plan. It went for \$55 an acre.

Mr. EMMELUTH. I would like to ask how many of the original grantees are now living on the land?

Governor DOLE. I think they all are except two.

Mr. EMMELUTH. How many are cultivating their lands?

Governor DOLE. All of them.

Mr. EMMELUTH. Are you not aware that quite a number of them are simply using the land as summer residences—out of town residences?

Governor DOLE. They had to use them as residences for two years in order to get their titles. After they got their titles of course they can do as they like.

Mr. EMMELUTH. Do you think the homestead law as a whole has been successful?

Governor DOLE. I don't think it is perfect. It has done a great deal of good. It has settled some thousand families on homesteads. It has done a lot of good.

Mr. EMMELUTH. Do you think the Olaa coffee lands would have been yielded to sugar if the conditions I had suggested had been carried out?

Governor DOLE. They were not under the homestead act. You remember those were crown land leases.

Mr. EMMELUTH. But finally went to a sugar corporation, in fact?

Governor DOLE. Yes; I presume they would have. They were offered a good price.

Mr. EMMELUTH. In regard to health matters, I would like to ask you. Before the legislature of 1898 there was a bill providing for sanitation of Honolulu. The legislature was composed of what I would term the select element in the community—being under the restricted ballot we had during the provisional government and republic, it was reasonably representative of the best elements in the community—they had a bill before the legislature, and had that bill been passed would it not have largely obviated the possibilities of plague for 1900?

Governor DOLE. I don't remember very clearly about that bill.

Mr. EMMELUTH. As a matter of fact, I think the trouble with our present system of government is that being such a system, it is nobody's business, and for that reason I consider that you have failed in what was a duty under the conditions under which we live, in not knowing of that bill.

Governor DOLE. I remember knowing of it at the time.

Mr. EMMELUTH. I consider that this community would have largely been saved the plague experience had that law been enacted and operated under.

Senator MITCHELL. What was the proposed law?

Mr. EMMELUTH. It was a sanitary law or laws, similar to what obtain in all municipalities on the mainland. Coming down to legislative matters, I would like to ask the Governor why the legislature was not entitled to have the records of the executive council from the time of the annexation of these islands to the United States to the time of the meeting of the legislature? I would like to state in submitting

that, that the sessions of the executive council were largely of a secret character, and for that reason many things obtaining there never became the property of the community at large. I wish to ask the Governor, before this commission, why it was these matters were not submitted?

Senator MITCHELL. What particular matters?

Mr. EMMELUTH. A journal—

Governor DOLE. There was a resolution, I think it was sent to me as governor, to furnish the legislature with copies, not only of the records of the executive council, but every letter which the government had received or sent since 1893. In the first place, we had not the clerical staff to do it. In the second place, there was nothing in particular that they were looking for. They simply wanted the whole thing before them. Then the minutes of the executive council. The executive council is not a secret body. We very often have people before us. Of course we do not have newspaper reporters before us, because a great many things that come up are personal matters dealing—in many cases it would be a prejudice to individuals to have such matters discussed.

Senator FOSTER. Any special things they wished?

Governor DOLE. No, it did not state. It was sweeping.

Mr. EMMELUTH. It had no specific inquiry. The reason for making a general inquiry was to find out the conditions prevailing between the time of annexation and the making of the resolution. Many acts of the executive council during that interval being of a character to warrant suspicion that special privileges had been not only asked for, but granted, we made this demand.

Governor DOLE. If the legislature had stated what they wanted, we should have been very glad to have furnished it. No reason was given, and we could not furnish everything. A great deal of the correspondence was with the United States Government during that period, and the United States is superior, and we felt that we did not have the right to give everything out unless they gave us permission.

Senator MITCHELL. Was there any objection by you or the secretary to exhibit any particular paper called for?

Governor DOLE. None whatever.

Senator MITCHELL. Any objection to permitting a public officer to exhibit such?

Governor DOLE. No; no such requirements. We would have been very glad, if they had instituted some special line of inquiry, to have looked it up and furnished it.

Senator MITCHELL. Your objection to responding was for the fact that it called for everything and specified nothing?

Mr. EMMELUTH. I would state I came up here on another business, not anticipating an opportunity like this. I will submit it in writing, but for the time if you will permit me to make inquiry of the governor before you, I would like to ask him some questions. Another question I wish to ask him is: When the House asked you for an extension of the session for the purpose of continuing specific legislation that was named and completing it, why did you object to such legislation when it was left optional with you to choose from the matters submitted those that you would permit us to legislate on?

Governor DOLE. When it was what?

Mr. EMMELUTH. The reason for refusing an extension of the legis-

The conduct of the present session of the legislature offers no assurance, so far that such extension would tend to promote the interest of the Territory, but raises in my mind strong doubts to the contrary.

I have recently refused a request from the senate for an extension of the session, such request being based upon similar grounds to those expressed from the house resolution. I find no reason now for coming to a different conclusion.

Very respectfully, yours,

SANFORD B. DOLE.

SANS SOUCI, April 27, 1901.

Senator MITCHELL. Can you find the answer of the governor to the senate that he refers to?

Mr. EMMELUTH. It is in the senate journal.

Senator BURTON. Didn't you sign yourself "Governor?"

Governor DOLE. I don't think I did.

Senator BURTON. Don't you sign all your official communications "Governor?"

Governor DOLE. If I sign a patent or proclamation, I sign it as governor, but I do not sign letters except to sign my name. That is the practice in my correspondence with Washington. I have followed the practice that comes from there.

The letter referred to as in answer to the Senate petition is as follows:

To the Hon. S. E. KAUF, *President of the Senate.*

SIR: The resolution of the senate requesting an extension of the present regular session of the legislature has been presented to me by the special committee of the senate.

The law provides for a special session of the legislature in case there is an adjournment of a regular session without the enactment of the necessary appropriations for the conduct of the government during the succeeding biennial period. The legislature therefore has the power to compel the calling of a special session for this purpose. The methods of the present session have been wasteful of both time and money, and there is little to show for a large expenditure of public funds.

Under the circumstances it seems to me that it is unreasonable for the legislature to look for both a special session and an extension of the regular session as well, with their inevitable accompanying large expenses.

The delay in enacting the appropriations has continued to so late a period that all expectation of such legislation before the expiration of this session by limitation of time appears now to be hopeless and the calling of a special session to be imperative. Such limitation of time will, I submit, take effect on Tuesday, the 30th day of April.

I can not therefore accede to the request of the senate failing such appropriations.

Very respectfully,

SANFORD B. DOLE.

SANS SOUCI, April 25, 1901.

Senator FOSTER. How many bills were passed through the last legislature?

Governor DOLE. I could not give you the exact number.

Mr. EMMELUTH. I want to ask whether the governor signed an appropriation bill.

Governor DOLE. My impression is that Mr. Cooper was acting governor when the appropriation bill was passed.

Mr. EMMELUTH. The appropriation bill, an appropriation of \$5,000 for expenses of the tax commission that was voted by the legislature, lower house voting on April 30 and the upper house on the 1st of May, the appropriations being made later in extra session; \$5,000 were appropriated for the expenses of this commission. The governor wanted the appropriation bill embodying that item, and the attorney-

general, on warrants being proposed to be issued in the case of the
 but it was not a fund within the limits of the law, and was not
 a work of the tax commission, and the government of the Hawaiian
 Islands.

I would like to say as to the thing which was done, that it was
 not out of the ordinary course of business, and that the contractor
 signed the contract, and the government of the Hawaiian Islands
 was interested.

Senator BURTON. If I may ask, what was the name of the
 contractor, EMMELETT, who was the contractor for the
 work of the tax commission, and the government of the Hawaiian
 Islands?

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Judge HUMPHREYS. I will ask you if the organic act did not continue in force the present land system of Hawaii, the present land system which we are following?

Governor DOLE. So I understand.

Judge HUMPHREYS. Now, if that land law was in force when you sent Mr. Boyd to Washington, why did you send him? To influence Congress against—

Governor DOLE. No, I think not. I should like to inform myself if you will allow me time.

Judge HUMPHREYS. I will ask you, furthermore, if you were not instrumental as governor, as chief executive, after annexation of the republic, in sending Mr. J. F. Brown, Mr. Boyd's predecessor?

Governor DOLE. Yes.

Judge HUMPHREYS. When you sent Mr. J. F. Brown's name for appointment under the Territorial act he was rejected?

Governor DOLE. I think he was.

Judge HUMPHREYS. Don't you know that the legislature of this Territory, the house and senate, passed a resolution disapproving of your policy of sending a land agent to Washington?

Governor DOLE. I don't remember.

Judge HUMPHREYS. You have no recollection on that subject at all?

Governor DOLE. I know a committee came up asking me questions about it. I don't remember further. Very likely it was passed.

Judge HUMPHREYS. And in the face of the sentiment of the legislature you subsequently, within six months, sent Mr. Boyd to Washington?

Governor DOLE. Well, I sent him.

Judge HUMPHREYS. Well, how much money did he use on that trip to Washington?

Governor DOLE. I don't know.

Judge HUMPHREYS. Has he ever made any report to you?

Governor DOLE. Yes; he has made a report—quite a full report. I don't know whether it included the amount of money spent. It was a report mainly of his work there.

Judge HUMPHREYS. Can you give approximately the amount of money that he spent on his trip to Washington?

Governor DOLE. No; I can not.

Judge HUMPHREYS. Can you say how long he was in Washington?

Governor DOLE. In the neighborhood of six months.

Judge HUMPHREYS. Do you object to producing all correspondence between yourself and Mr. E. S. Boyd while he was in Washington, and filing it?

Governor DOLE. If the commissioners would like it, they are welcome to it.

Senator BURTON. Relating to official matters?

Governor DOLE. I presume there is no objection. Sometimes matters personally referring to individuals are spoken of.

Senator BURTON. What was he sent there for?

Governor DOLE. He was sent there to inform the Administration in regard to land matters here and also the committees of Congress.

Senator MITCHELL. You say his instructions were in writing?

Governor DOLE. Yes.

Senator MITCHELL. Well, you might attach the instructions. They will speak for themselves.

general, on warrants being proposed to be drawn on that fund, declared that it was not a fund within the terms of the law, and consequently the work of the tax commission had to be suspended for another two years.

I would like to say as to existing methods, that to-day at noon a contract was let out of the public works department with a clause providing that the contractor shall look to the next legislature for the amount of his contract and the government guarantees him 6 per cent interest in the interval.

Senator BURTON. If you want to testify——

Mr. EMMELUTH. I want to ask whether he is aware of the health conditions in this community being crowded as anything we had during the plague time.

Governor DOLE. No, I am not.

Mr. EMMELUTH. I would like to state, Mr. Senator——

Senator BURTON. Go ask him what questions you want, then we will hear you.

Mr. EMMELUTH. All right. As to the legislature. I want to ask the governor why, when he found an opportunity six days after the end of the session to sign a bill intended for the convenience of the supreme court, he could not find equal time for the convenience of the whole people. I refer to the bill for county government, which passed the house, the lower house, by a vote of 23 out of 30, with 4 absentees, and in the upper house by a vote of 9 out of 15, 1 not voting.

Governor DOLE. I will answer as well as I can. This bill for the supreme court was a simple bill, very clear, in my mind, and it was for the public interest, and it turned out to be so. It is a pretty doubtful matter to sign a bill after the session is closed. We found only one precedent. Abraham Lincoln did it once. We found no other precedent in any legislature for it, so I felt I was justified in doing it in that case. The county bill was an impracticable bill; I would not have signed it if I had had a hundred days; it was impracticable and unworkable. If it had come in earlier, and I had had time, I should have vetoed it.

Judge HUMPHREYS. Governor Dole, Mr. E. S. Boyd's going to Washington during the session of the last Congress, how were his expenses paid?

Governor DOLE. Out of the incidentals.

Judge HUMPHREYS. Of his office?

Governor DOLE. I think so; I suppose so.

Judge HUMPHREYS. You have been justice of the supreme court of this Territory, have you not?

Governor DOLE. Yes; not of this Territory, but of the monarchy.

Judge HUMPHREYS. Is it your opinion that the appropriation for incidental expenses of an officer of this Territory would entitle him to employ such appropriation for the purpose of making a trip to Washington?

Governor DOLE. Yes, under circumstances; it was in the promotion work in his department.

Judge HUMPHREYS. What were his instructions?

Governor DOLE. Well, they are in writing; I could not tell them.

Judge HUMPHREYS. In general terms.

Governor DOLE. I could get them.

Governor DOLE. No; I do not know.

Senator BURTON. Do you mean the wife of the land commissioner?

Judge HUMPHREYS. I understood you to say you did not?

Governor DOLE. I do not. It think his initials are E. M.

Mr. BOYD. No; E. S.

Judge HUMPHREYS. I understood you to say your report, your statement of the charge of bribery, was based upon newspaper reports?

Governor DOLE. Partly.

Judge HUMPHREYS. You stated that fact in your message to the legislature, that it was based on newspaper report?

Governor DOLE. I don't remember.

Judge HUMPHREYS. Do you remember whether or not it was so based?

Governor DOLE. I say it was based partly.

Judge HUMPHREYS. And partly what was said to you? Was it said to you that the entire legislative body had been guilty of corruption?

Governor DOLE. No.

Judge HUMPHREYS. The statement in regard to bribery was sweeping and embraced the members of both houses?

Senator MITCHELL. Well, Judge, the message shows exactly what the governor did. The record should speak for itself.

Judge HUMPHREYS. I would like to ask him if he had any information other than newspaper report as to bribery on the part of the members of the legislature?

Governor DOLE. Yes.

Judge HUMPHREYS. Do you mind stating the source of information, without giving names?

Governor DOLE. I do not see how I can give the source without giving names.

Judge HUMPHREYS. State whether or not from members of the executive department or the legislature.

Governor DOLE. I can not remember very well. Part of it came from an executive member of the government and part of it came from a member of one of the houses, but I don't think—I think through a third party to me.

Judge HUMPHREYS. Under this newspaper report and upon the statements which were made to you by third parties you made this sweeping charge against the legislature?

Governor DOLE. Well, I wrote that letter, whatever it was.

Senator FOSTER. It came to you from a source that satisfied you that there was something of that kind in the air?

Governor DOLE. Yes, it did.

Judge HUMPHREYS. When you testified before the grand jury didn't you state that your testimony was hearsay; that judicial charges could not be predicated on it?

Governor DOLE. It must have been hearsay testimony. I knew nothing myself.

Senator MITCHELL. That is what he says now—newspaper report and what others said to him.

Governor DOLE. I don't think I said charges could not be predicated. I don't remember exactly what I did say. The government was working up something leading to a good case and it was not ready to give it to the public.'

Governor DOLE. I will give my letter to the commission.

Senator BURTON. Any correspondence pertaining to his office while there.

Governor DOLE. The question was up before Congress in regard to land matters here and it seemed desirable to have him there to furnish them information, such information as they might require as to the lands here.

Judge HUMPHREYS. You consider these appropriations for incidental expenses as being appropriations for Mr. Boyd's expenses despite the fact that the legislature had condemned the use of such a fund by Mr. J. F. Brown?

Governor DOLE. Yes. I do not remember whether the legislature did condemn Mr. Brown's action. If they did, it must be in spite of that.

Judge HUMPHREYS. I will ask if, under the present land law, an alien, a Chinaman, if you please, can secure the same rights under the Hawaiian land system as an American?

Governor DOLE. I think not.

Judge HUMPHREYS. Don't you know that aliens have bought lands here under the Dole land act in force?

Governor DOLE. I do not think so.

Mr. E. S. BOYD. They can not.

Governor DOLE. I don't think so.

Judge HUMPHREYS. This is not a two-ringed circus. I can not examine more than one witness at once. I will ask you, furthermore, after annexation of these islands the personal friends of the executive did not secure large grants of land by exchange?

Governor DOLE. I wish you would mention them. I do not know.

Judge HUMPHREYS. I will ask you to say whether they did or not. I wish the question answered.

Governor DOLE. I ask the protection of the commission that Judge Humphreys be respectful.

Senator MITCHELL. Certainly, all the gentlemen will be respectful and show proper respect for the commission.

Judge HUMPHREYS. I wish to be respectful. I will ask you whether the Secretary of the Interior did not direct that in the future officers of the executive department should not purchase any public lands or become the grantees of any land by reason of any exchanges of public lands?

Governor DOLE. There was some lands in Oloo—

Judge HUMPHREYS. Answer my question.

Senator MITCHELL. Allow him to proceed in his own way.

Governor DOLE. I infer he is referring to this Oloo matter. A large amount of land had been surveyed, small lands for settlers, and they were being taken up, I think, under a system which put them up at auction. One of the clerks of the subland agent up there, or of the land agent, one of the clerks of his office, bid on one of these lands and did it in. That was complained of by some of the others; complained out. The minister of the interior inquired about it, and it was explained to him, and he sent a letter in which he said that that ought not to be repeated, or something to that effect.

Judge HUMPHREYS. Do you know whether or not within the last few days Mrs. E. S. Boyd has purchased any part of the public domain within this Territory?

Governor DOLE. No; I do not know.

Senator BURTON. Do you mean the wife of the land commissioner?

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Judge HUMPHREYS. Don't you know that the superintendent of public works, treasurer, the secretary of the Territory, and the ex-treasurer, Mr. Lansing, refused to testify as to these charges of bribery, some one before the grand jury stating that their evidence was entirely hearsay?

Governor DOLE. No; I do not know that. I was not present.

Judge HUMPHREYS. Didn't they consult with you before they gave that testimony?

Governor DOLE. Some of them.

Judge HUMPHREYS. Don't you know that they made up their minds not to testify, to resist the power of the court to compel them to testify?

Governor DOLE. Not on that ground. The sole ground was that the giving of this testimony out in public would interfere with the case they were working up.

Judge HUMPHREYS. Has anything ever come of it? Has this case ever been worked up?

Governor DOLE. No.

Judge HUMPHREYS. Have any charges of bribery been made judicially against any member of the legislature?

Governor DOLE. No.

Judge HUMPHREYS. Do you know whether or not the high sheriff and his force were communicated with in regard to it?

Governor DOLE. I do not know.

Judge HUMPHREYS. Who was working them up?

Governor DOLE. I think I will have to refer you to the attorney-general.

Judge HUMPHREYS. You do not know?

Governor DOLE. The attorney-general, I suppose, was on the matter.

Judge HUMPHREYS. Are those matters generally not referred to the high sheriff and detective force?

Governor DOLE. Sometimes.

Judge HUMPHREYS. Well, you know the practice of the departments here. I will ask you whether or not it is the general practice of the departments here?

Governor DOLE. I think it depends a great deal on what the case is. Sometimes they would not call in the assistance of the police.

Judge HUMPHREYS. As a matter of fact nothing has ever been done? It was based on newspaper report and what was said?

Governor DOLE. Well, no case has been brought.

Judge HUMPHREYS. And the grand jury reported that nothing was in the charge, did it not?

Governor DOLE. No; they reported that there was some suspicious things about it, but nothing upon which they could base a bill, I believe.

Judge HUMPHREYS. The mere fact that the governor of the Territory made a charge would tend to create suspicion, would it not?

Governor DOLE. I don't know. You can draw your own conclusions. It might.

Judge HUMPHREYS. Wasn't that the purpose in making the charge?

Governor DOLE. No; it was not.

Judge HUMPHREYS. It was not your purpose that the general public, Congress, public sentiment, and anyone interested should attach sus

picion to your message, and that the invariable result would be to discredit the Hawaiian electors?

Governor DOLE. No.

Judge HUMPHREYS. Wasn't that the scheme and purpose of your message?

Governor DOLE. No; it was not.

TUESDAY, *September 23, 1902.*

MORNING SESSION.

In re the settlement of a sum of money upon Liliuokalani by the Congress of the United States.

Senator MITCHELL:

In reference to the question pending at the adjournment yesterday, your committee has reached the following conclusion:

Since no question can ever arise looking to the restoration of the monarchy, the committee is unanimously of the opinion that it is not necessary or proper to inquire through oral testimony at this time into the causes that led to the dethronement of the Queen and the part that the United States Government had in that matter, if any. And waiving for the present any decision of the question as to whether an inquiry into the causes which led to the downfall of the Monarchy and the instrumentalities which cooperated in the dethronement of the Queen can be properly made in considering the present claim, we are of opinion that the evidence respecting her dethronement and all matters relating thereto are now matters of political history and official record, and upon this record of evidence must that question be determined, if its determination is necessary.

The committee, however, would like to be advised as to the sentiment of the people of this Territory respecting the claim of the Queen and as to the wisdom and advisability, for any reason, of the United States recognizing her claim by making her some reasonable provision, and next, as to the value of the property and its rentals it is claimed were taken from her.

Counsel for the Queen will proceed with the examination within the limits of the rule just stated.

WALTER E. WALL, sworn.

Senator MITCHELL. Give your name, age, residence, and occupation.

Mr. WALL. Age, 34; occupation, surveyor of the Territory of Hawaii. I have resided here twenty-two years.

Senator MITCHELL. What is your exact title?

Mr. WALL. Surveyor.

Senator MITCHELL. Of the Territory?

Mr. WALL. Simply surveyor. It was formerly surveyor-general. Now that you speak of it, some title that would designate the position a

little better would be an advantage. It is confusing. It happens that I have a brother who is also a surveyor, and occasionally mail matter goes to him that should come to me.

Senator MITCHELL. Do you fill an office created by law?

Mr. WALL. The position of surveyor is provided for in the organic act.

Senator MITCHELL. How long have you held that position?

Mr. WALL. Since the 1st of February, 1901.

Senator MITCHELL. Have you prepared a statement for the use of the committee relating to the survey of public lands in this Territory?

Mr. WALL. I have, sir.

Senator MITCHELL. Have you it with you?

Mr. WALL. I have.

Senator MITCHELL. Are the statements contained in that paper true?

Mr. WALL. Yes, sir.

Senator MITCHELL. Leave it with the stenographer and it will be incorporated in the record. Anything else?

Mr. WALL. I think that is all.

Senator MITCHELL. Judge Humphreys and Mr. De Knight, proceed with the examination, keeping within the rules laid down.

JOHN A. CUMMINS, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. CUMMINS. Sixty-eight; Honolulu. I am out of occupation now.

Judge HUMPHREYS. Mr. Cummins, you have just stated you are out of occupation. You have an income from your property?

Mr. CUMMINS. Yes, Judge.

Judge HUMPHREYS. Mr. Cummins, are you a native Hawaiian?

Mr. CUMMINS. I am a Hawaiian; yes.

Judge HUMPHREYS. Born in the Hawaiian Islands?

Mr. CUMMINS. Yes, sir.

Judge HUMPHREYS. State what official positions you have held under this or any preceding government in Hawaii.

Mr. CUMMINS. I was a nobleman. I was one of the council—of the privy council. I was in Kalakaua's time. It was the last of Kalakaua's years. I was premier of the country and minister of foreign affairs.

Judge HUMPHREYS. Any other positions held by you that you held under the reign of Liliuokalani?

Mr. CUMMINS. I was a nobleman of the house, a member of the privy council under Liliuokalani.

Judge HUMPHREYS. Having lived here all of your life, Mr. Cummins, having held influential situations during a considerable portion of your mature years, I presume you have been brought in contact pretty much with all elements in this Territory. You know the people generally?

Mr. CUMMINS. Yes, sir.

Judge HUMPHREYS. I will ask you if you know what the prevailing sentiment is in regard to the United States settling a sum of money on the late Queen, Liliuokalani? What is the sentiment and feeling of the people in that regard?

Mr. CUMMINS. The people through the islands?

Judge HUMPHREYS. Yes; generally speaking.

Mr. CUMMINS. What they think of a——

Judge HUMPHREYS. Settlement by the United States on the ex-Queen.

Mr. CUMMINS. Do you mean in money or land?

Judge HUMPHREYS. In money.

Mr. CUMMINS. I think she ought to be paid for it.

Judge HUMPHREYS. That is your personal opinion?

Mr. CUMMINS. Yes.

Judge HUMPHREYS. I ask you—you understand the general sentiment from your contact with the people—what do others think?

Mr. CUMMINS. I am speaking of the natives.

Judge HUMPHREYS. Yes.

Mr. CUMMINS. I think some of the foreigners of this country think that way.

Judge HUMPHREYS. Do you mean to say in speaking of the natives that the natives felt that the Queen should be compensated, that she should receive a settlement of money?

Mr. CUMMINS. She ought to be paid for it.

Judge HUMPHREYS. That is the sentiment among the Hawaiian people?

Mr. CUMMINS. That is what I understand.

Judge HUMPHREYS. Is it your opinion that the settlement of a sum of money—and by the word “settlement” I mean an appropriation of a sum of money—on the ex-Queen would be highly appreciated by the Hawaiian people and would tend to draw them closer to their new country? Do you understand?

Mr. CUMMINS. I am just thinking how to answer that. I don't want to answer anything that is out of my head. You know I am a little slow, Judge; so excuse me, gentlemen, when I speak. I believe it.

Judge HUMPHREYS. Is that your settled opinion?

Mr. CUMMINS. Yes.

That is all.

JOHN E. BUSH, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. BUSH. John E. Bush; sixty; interpreter of the supreme and circuit courts, Honolulu; native of this country—Hawaiian born.

Senator MITCHELL. Have you lived here most of your life?

Mr. BUSH. All my life.

Senator MITCHELL. Are you acquainted with the conditions and the general sentiment of the people of this Territory?

Mr. BUSH. I think I am pretty well acquainted with them, having passed through all the stages of the changes, political or otherwise.

Judge HUMPHREYS. Mr. Bush, will you kindly state what official position you now hold in this Territory, if any?

Mr. BUSH. I am an interpreter of the supreme and circuit courts.

Senator MITCHELL. What position did you hold under the monarchy; what position or positions have you held?

Mr. BUSH. From the clerkship up to almost every office in the civil service, except the judiciary.

Senator BURTON. Just name them, won't you?

Mr. BUSH. I was first as a clerk in the interior office, in the land office. I was afterwards made governor of the island of Kauai during

the reign of Kahlkama, then had a position as an adviser under the King. Then various positions in order to foreign affairs, in order of the interior, an interim attorney-general, and afterwards minister plenipotentiary to the United States. It is a good-sounding title, but it is a fact: I was sent down there in a commission. I think that was the last important position I held above the Kingdom.

Senator BURTON. I would like to know the dates of his present position.

Judge HUMPHREYS. What are you asked again to do?

Mr. BUSH. First I was asked to do, and therefore everything that was brought before me during the process of a trial.

Senator BURTON. Supreme court?

Mr. BUSH. Supreme and circuit courts.

Senator BURTON. At the present time?

Mr. BUSH. At the present time.

Senator BURTON. Who were you appointed by?

Mr. BUSH. I was appointed by Mr. Humphreys. Prior to Mr. Humphreys's appointment as judge I was appointed by the supreme court.

Senator BURTON. Who are you an appointee of now?

Mr. BUSH. Mr. Humphreys.

Senator BURTON. But he is no judge now?

Mr. BUSH. No one has been appointed. My commission holds over under his appointment.

Judge HUMPHREYS. In other words I have a record of it, this witness was merely appointed in the position which he held when I became judge. You were interrogated when I became judge, were you not?

Mr. BUSH. I was.

Judge HUMPHREYS. I merely reminded you is that?

Mr. BUSH. Yes.

Judge HUMPHREYS. Have you been a newspaper editor in the Hawaiian Islands?

Mr. BUSH. I have.

Judge HUMPHREYS. Published in the Hawaiian language?

Mr. BUSH. In both languages.

Judge HUMPHREYS. Mr. Bush, have you an extensive acquaintance among the Hawaiian people of this Territory and United to the island of Oahu?

Mr. BUSH. My acquaintance extends from Niihau to the extreme end of Hawaii.

Judge HUMPHREYS. You frequently come in contact with people from all parts of the Territory?

Mr. BUSH. Yes, sir, I have.

Judge HUMPHREYS. I will ask you to state what is the prevailing sentiment with reference to a monarch upon the Queen?

Mr. BUSH. I think it is almost universal among the Hawaiians and a very large percentage of the whites.

Judge HUMPHREYS. A just and a correct thing to do.

Mr. BUSH. I think so.

Judge HUMPHREYS. As regarded by the people with whom you have discussed the matter?

Mr. BUSH. Yes, I think that the sentiment would tend to have a closer relationship between the Hawaiians and the Government which they are attached to at the present time.

Judge HUMPHREYS. You are an American citizen?

Mr. BUSH. I am, since annexation took place.

Col. SAMUEL PARKER, recalled.

Judge HUMPHREYS. Colonel Parker, what position, if any, did you hold under the Hawaiian monarchy?

Colonel PARKER. Minister of foreign affairs.

Judge HUMPHREYS. You were minister of foreign affairs at the time of what is commonly called the overthrow of Liliuokalani?

Colonel PARKER. I was.

Judge HUMPHREYS. You are a native Hawaiian?

Colonel PARKER. I am.

Judge HUMPHREYS. You have lived in these islands all your life?

Colonel PARKER. Yes.

Judge HUMPHREYS. You have a wide acquaintance with the people of the Territory?

Colonel PARKER. Yes; I think so.

Judge HUMPHREYS. Going back to the official position, have you held any other official position under the Territory?

Colonel PARKER. No; no official position.

Judge HUMPHREYS. You were Republican nominee two years ago for Congress?

Colonel PARKER. Yes.

Judge HUMPHREYS. In making your campaign you came in contact with the people all over the islands?

Colonel PARKER. Yes.

Senator BURTON. Are you national committeeman of the Republican party?

Colonel PARKER. I am.

Judge HUMPHREYS. What is the prevailing sentiment with reference to the justice of a settlement of a sum of money upon the ex-Queen by the United States?

Colonel PARKER. Well, I think I know it is in the Republican platform that a liberal amount be set forth for the ex-Queen Liliuokalani. It was also in the Home Rule and Democratic platforms two years ago, and also in our platform this present campaign.

Senator BURTON. That relates to the Territory here. I am asking about the Federal Government.

Judge HUMPHREYS. What is the sentiment about the appropriation?

Colonel PARKER. I think she is entitled to it myself, and I think that would be the feeling of those that I have talked with. Some provision should be made.

Senator MITCHELL. By Congress?

Colonel PARKER. By Congress or by the United States Federal Government.

Judge HUMPHREYS. Is that the general sentiment?

Colonel PARKER. I think it is.

Judge HUMPHREYS. You have heard the matter discussed?

Colonel PARKER. Oh, yes; I have heard it.

Judge HUMPHREYS. Seems to be the sentiment of the people?

Colonel PARKER. Yes.

Judge HUMPHREYS. Is the ex-Queen a lady of fortune?

Colonel PARKER. Well it depends what you call fortune.

Judge HUMPHREYS. Well, state in general terms.

Colonel PARKER. Well it is a pretty hard thing for me to say. I know she has got something. She has some property, but the valuation of it I do not know.

Judge HUMPHREYS. Do you know whether or not it is encumbered?

Colonel PARKER. Yes; some incumbrance; yes.

Judge HUMPHREYS. Now, has she any dependents? Is she supporting anybody?

Colonel PARKER. That I don't know. She must. I think she has a child. Yes, she had some that she is supporting.

Judge HUMPHREYS. Aged Hawaiians and young girls?

Colonel PARKER. Yes; girls and grown-up people, too.

Judge HUMPHREYS. On her bounty?

Colonel PARKER. Living on her estate.

Judge HUMPHREYS. Some old Hawaiians who have been accustomed to looking to her from childhood for support?

Colonel PARKER. Well, yes.

Judge HUMPHREYS. You referred to the child of the ex-Queen. You mean adopted child?

Colonel PARKER. Yes.

Judge HUMPHREYS. She has never had issue?

Colonel PARKER. No.

JOHN F. COLBURN. sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. COLBURN. Age, 42; residence, Honolulu; my occupation is that of treasurer of a corporation called the Kapiolani Estate, Limited.

Senator MITCHELL. How long have you resided in the islands?

Mr. COLBURN. All my life.

Senator MITCHELL. You are a native of the islands?

Mr. COLBURN. Yes.

Judge HUMPHREYS. Mr. Colburn, did you hold any official position under the reign of Kalakaua?

Mr. COLBURN. I did not.

Judge HUMPHREYS. Under the reign of the ex-Queen Liliuokalani?

Mr. COLBURN. I did.

Judge HUMPHREYS. What position?

Mr. COLBURN. My first appointment under royal commission was a member of the board of health, and I held the portfolio of minister of the interior at the dethronement of the Queen.

Judge HUMPHREYS. Are you extensively acquainted with the people of these islands?

Mr. COLBURN. Yes.

Judge HUMPHREYS. Do you know what the prevailing sentiment is with regard to the justice and propriety of a settlement upon the ex-Queen by the United States?

Mr. COLBURN. I think the universal sentiment is that the Queen should be compensated in damages.

Judge HUMPHREYS. What effect, if any, in your opinion, would that have upon the conditions which exist here?

Mr. COLBURN. I think it would tend to reconcile the minds of the native Hawaiians.

Judge HUMPHREYS. They would look upon it as a gracious and kindly act upon the part of the United States?

Mr. COLBURN. Yes.

JOHN F. COLBURN, recalled.

MR. COLBURN. Mr. Chairman, anticipating leaving town in a day or so, as I understand the commission will not be here much longer, I would ask if the commission will permit me to absorb a very few minutes in submitting a matter pertaining to the tide lands, the report of a man that we employed to make bearings, and submit a map of the Kalihi Channel, and the soundings and the maps showing the relative position of Honolulu Harbor and the Kalihi Harbor, I will present to the committee, and the samples of the coral and sand brought up.

SENATOR MITCHELL. I may state I received a letter which should have been answered. We were leaving for the big island and I have been so busy. Certainly we will hear you, what you have to say.

MR. COLBURN. This report that was made by the gentleman—

SENATOR MITCHELL. What is the paper you handed me?

MR. COLBURN. That is the report made by Captain Rosedale, the gentleman that made the bearings on this tide land, extending from Honolulu Harbor to the Kalihi Harbor.

SENATOR MITCHELL. This is official, is it?

MR. COLBURN. Yes.

SENATOR MITCHELL. We will make it a part of the record.

(The paper is marked with the number 144.)

SENATOR MITCHELL. Mr. Colburn will present two maps showing the relative position of the Honolulu Harbor and the Kalihi Harbor, a distance of about 8,200 feet, and a tracing showing 600 soundings made at Kalihi Harbor.

These maps will be attached to your statement.

MR. COLBURN. In regard to coral soundings, what is your pleasure in regard to the same?

SENATOR MITCHELL. I don't believe we can take it.

SENATOR FOSTER. How deep, how much coral is there?

MR. COLBURN. There seems to be a bank about 16 feet thick right straight through. The bearings made go to the average depth of 2 feet.

SENATOR MITCHELL. We are very much obliged.

S. M. DAMON, recalled.

JUDGE HUMPHREYS. As Mr. Damon was a member of the provisional government, for reasons readily seen I would suggest that the Chairman conduct the examination.

SENATOR MITCHELL. Mr. Damon, state what official positions you have held in this country under either the monarchy, the Republic, or the present Territorial government.

MR. DAMON. Shall I carry them through from the beginning; that is, in a general way?

SENATOR MITCHELL. Yes, please.

MR. DAMON. First, member of the board of health, member of the privy council, minister of finance, then—

SENATOR MITCHELL. Under the monarchy?

MR. DAMON. That was under the monarchy; then trustee, and I don't know what you might call it, trustee of His Majesty Kalakaua's estate before his death—one of the trustees. Then on the provisional government I was a member of the provisional government, then minister of finance, and later vice-president, and continued on as

ister of finance through the different governments of the Republic and up to annexation, when my public life ended. Also a member of the privy council under Liliuokalani.

Senator MITCHELL. Mr. Damon, state if you are acquainted with the prevailing sentiment of the people of this Territory generally and their attitude toward the ex-Queen.

Mr. DAMON. I think there is no question that either this government or the United States Government should endow her substantially, and it would be beyond all question a very honorable and gracious thing for the United States Government to do. Whether it is consistent with their principles to do such a thing as to subsidize a queen, that I have nothing to say, but personally I consider that it would be a very gracious act, and one that would be highly appreciated by Hawaiians and the people generally of this Territory.

Senator MITCHELL. That is your own opinion, personally, and you believe also that to be the general opinion?

Mr. DAMON. It is not only my own; I don't know as I have ever heard any contrary opinion here on that subject. I think from the very first the general feeling was that she should have and was entitled to recognition. Of course in the heat of the first go-off of the provisional government there was a great deal of feeling, but as parties quieted down and the justice of the situation began to be apparent and all parties—Republican, Home Rule, and Democratic—as they gradually came down to their bearings have all had that in mind; that it was the proper thing to do.

Senator MITCHELL. You think such an act upon the part of the Federal Congress would tend to harmonize matters in the islands and create a better feeling?

Mr. DAMON. I think it would be highly appreciated as a gracious act upon the part of the United States Government. The Government would be recognized as having a more than kindly interest in the welfare of this community; that is the way it impresses itself upon my mind.

Judge HUMPHREYS. That is all. In line with Mr. Damon's testimony as to what interest has been shown from the very first—that is, from the earliest period of the overthrow—I desire to call attention to the treaty of annexation negotiated by and between the representatives of the provisional government and the United States on the 14th day of February, 1893, within thirty days after the overthrow of the monarchy:

The Government of the United States to pay to Liliuokalani, the late Queen, within one year from the date of the exchange of the ratifications of this treaty, the sum of \$20,000, and annually thereafter a like sum of \$20,000 during the term of her natural life, provided she in good faith submits to the authority of the Government of the United States and the local government of the islands.

And the Government of the United States further agrees to pay to the Princess Kaiulani, within one year from the date of the exchange of the ratifications of this treaty, the gross sum of \$150,000, provided she in good faith submits to the authority of the Government of the United States and the local government of the islands.

And section 12:

That a proper financial provision be made for the support of the ex-Queen Liliuokalani and the ex-heir presumptive Kaiulani as long as they shall in good faith submit to the authority and abide by the laws of the government established by virtue of this treaty.

At that time Kaiulani was heir to the throne.

Senator MITCHELL. Signed?

Judge HUMPHREYS. The treaty is signed by John W. Foster, then Secretary of State for the United States, and by L. A. Thurston, W. C. Walter, J. Marsden, William R. Castle, Charles H. Carter, directly authorized by the provisional government of the Hawaiian Islands, they having been delegated as special commissioners to the United States for the purpose of negotiating a treaty. The treaty is dated ten years ago. If that settlement had been made, she would now have received—that is, if it had passed the Senate, approved by the Senate—she would have received \$200,000, in addition the Princess Kaiulani \$150,000, making a total of \$350,000 which would have been paid by the United States up to this time.

Mr. DE KNIGHT. Under that treaty she did not waive any right to the Crown lands.

Judge HUMPHREYS. She was to submit to the Government of the United States and to the local government.

HENRY E. COOPER, recalled.

Senator BURTON. You have been connected with the provisional government of the Hawaiian Islands and the Republic of Hawaii, and are now connected with the Territorial government?

Mr. COOPER. Yes.

Senator BURTON. I want to ask you a question. First, you have been in an official position constantly since the overthrow of the Queen?

Mr. COOPER. Yes.

Senator BURTON. Without reference to the questions involved in the dethronement of the Queen and the action of the provisional government of the Republic of Hawaii or the United States in seizing the Crown lands or any property of the Queen, what, in your opinion, is the sentiment in Hawaii toward the Queen, and what, in your opinion, should be done for her by the Federal Government?

Mr. COOPER. Toward the Queen, what should be done?

Senator BURTON. Yes.

Mr. COOPER. In answering that I should prefer to give my own opinion rather than to give my opinion as to the sentiment. I had to pass upon that question while acting governor, when the appropriation bill was presented to me carrying with it an item of \$15,000 for the biennial period for an annuity. I considered it was a wise policy to pursue.

Senator BURTON. That is the first legislature that has assembled under the Territorial government?

Mr. COOPER. Yes.

Senator BURTON. You say, as acting governor, you signed it?

Mr. COOPER. I approved the bill. I believe it would be a wise and sound policy to pursue and to continue that payment either by the Territory or by the United States Government, as may seem best. I think that the Queen should have a suitable provision for her maintenance. She was the last sovereign of the country, and it would seem to me unwise to have anyone feel that she was in pecuniary necessity at any time, and I believe that it would be a matter of sound policy for the Congress of the United States, if they should deem it a proper thing, to make a settlement of some kind upon her.

Senator BURTON. Well, you speak of not speaking of the sentiment

of the people here. How would that, in your opinion, be received by the people of Hawaii?

Mr. COOPER. I think it would be almost unanimously approved.

LORRIN A. THURSTON, sworn.

Senator BURTON. State your name, age, residence, and occupation.

Mr. THURSTON. Name, Lorrin A. Thurston; age, 44; residence, Honolulu; attorney at law.

Senator BURTON. Where are you a native of, Mr. Thurston?

Mr. THURSTON. Hawaii.

Senator BURTON. Did you hold any official positions under the late monarchy?

Mr. THURSTON. I did.

Senator BURTON. What were they?

Mr. THURSTON. I was a member of the legislature of 1886 and ex officio of the legislatures of 1887, 1888, and 1890, and also, by election, member of the legislature of 1892; I was minister of the interior from 1887 to 1890, and I was a member of the board of health and a member of the board of immigration.

Senator BURTON. Did you hold any office under the provisional government?

Mr. THURSTON. I did.

Senator BURTON. What was it?

Mr. THURSTON. I was, first, annexation commissioner to the Harrison Government in 1893, and I was later appointed minister to Washington, and in 1897 was appointed annexation commissioner to the McKinley Administration.

Senator BURTON. You are the Thurston named in the committee of safety among the thirteen?

Mr. THURSTON. I am; yes.

Senator BURTON. Now, Mr. Thurston, without reference to the questions involved in the dethronement of the Queen and the action of the provisional government of the republic of Hawaii, or the United States in seizing the crown lands or any property of the Queen, what, in your opinion, is the sentiment of Hawaii toward the Queen, and what, in your opinion, should be done for her by the Federal Government?

Mr. THURSTON. I think the general feeling, in which I concur, concerning the Queen is that what happened during the times of 1893 and the troublous period subsequent to that is passed and gone, and that whatever she might have done or not have done, that was consistent or inconsistent with the opinions of those who were opposed to her, does not do away with the fact that she was and is the final and last representative of the Hawaiian monarchy, and it would be inconsistent with the dignity of this country and the propriety of the situation that she should ever lack, pecuniarily, any comforts or more than comforts necessary to support a proper status in life incident to that position. That feeling manifested itself here from the very beginning by the provisional government continuing immediately after the overthrow to pay from the treasury her salary which had been voted to her as sovereign.

Senator BURTON. What was that?

Mr. THURSTON. I forget if it was \$25,000. I do not think that feeling has ever changed.

Senator BURTON. You think that the act of the Federal Government of this kind toward the Queen would meet with favor of the people of the Hawaiian Islands?

Mr. THURSTON. I do. The clause in the treaty which Mr. Humphreys read had the unanimous favor of the provisional government to the Harrison Administration and was the final result of considerable discussion between the commission and the United States authorities at that time. The first proposition was to pay her a lump sum of \$250,000, not as compensation, but as a matter of policy. That was finally changed to the provision as it reads in the treaty, of \$20,000 a year during her life.

Judge HUMPHREYS. I read from the session laws of 1892, page 7, entitled an "Act making special appropriations for the use of the government during the two years which will end on the 31st day of March, in the year A. D. 1894," section 1: "The following sums, amounting to \$2,811,430.20, are appropriated to be paid out of and by the money in the Territory," etc., and in that appropriation bill the following items appear under the subtitle, "Civil list:"

Her Majesty, private purse:

From March 31, 1892, to November 30, 1892.....	\$13,000
From November 30, 1892, to March 31, 1894.....	20,000

Senator BURTON. Give the total.

Judge HUMPHREYS. The total is \$33,332. There are some household expenses on the next page.

Her Majesty's household expenses, \$10,000.

I now desire to call attention to the following letter, which was addressed to the Secretary of State, John W. Foster, by the Hawaiian special commissioners. It is dated Washington, D. C., February 14, 1893, and received February 14, 1893. I will state it appears from this letter that Mr. Secretary Foster had addressed a communication to the Hawaiian special commissioners from the provisional government to the United States, asking terms of conditions to negotiate a treaty of annexation, and among the conditions submitted by the Hawaiian special commissioners I find the following, being the twelfth and last condition named by them—that is to say:

That an appropriate financial provision be made for the support of the ex-Queen, Liliuokalani and the ex-heir presumptive, Kaiulani, as long as they shall in good faith submit to the authority and abide by the laws of the government established by virtue of this treaty.

This is signed by all the special commissioners of the provisional government of the Hawaiian Islands.

W. R. CASTLE sworn.

Senator BURTON. State your name, age, residence, and occupation.

Mr. CASTLE. Name, William Richards Castle; age, 53; residence, Honolulu; occupation, I am a lawyer. I was born here and brought up here.

Senator BURTON. Do you hold any official position under the government, or did you hold any such position under the monarchy?

Mr. CASTLE. I did. I was attorney-general under Kalakaua, in 1876 and 1877, and an elected member of the legislatures of 1878 and 1880, 1887 and 1888, and under the provisional government one of the annex-

ation commissioners to Washington, and under the republic, for a short period, minister in Washington.

Senator BURTON. Mr. Castle, I want to ask you, without reference to the questions involved in the dethronement of the Queen and the action of the provisional government of the republic of Hawaii or the United States Government in seizing the crown lands or any property of the Queen, what, in your opinion, is the sentiment in Hawaii toward the Queen and what, in your opinion, should be done for her by the Federal Government?

Mr. CASTLE. I think the sentiment of the aboriginal Hawaiians, as well as those who have become naturalized and those born here, is one of great friendliness and consideration, and I think the feeling has been unchanged from the very beginning of the troublous time in 1893 and continues to the present day, that the Queen should receive a proper compensation per annum, and I suppose I may say my own sentiment was pretty well expressed in article 6 of the treaty of annexation which was negotiated in 1893. I think that that compensation should be made by the United States, not because of any bargain or anything of that kind, but because of the people here.

Senator BURTON. From a high national standpoint?

Mr. CASTLE. From a high national standpoint. I believe it would do more toward reconciling Hawaiians who only see the overthrow by the Government of the United States, realize the true friendship and courtesy of the United States for conditions here. It would make the Hawaiian people more than anything else feel that annexation was not an act of tyranny, but the act of a friendly nation for a weak one, and they will become more easily and thoroughly Americanized by such a course on the part of the United States than anything I can think of. I feel very strongly myself, as you, gentlemen, see. I think I am acquainted with the sentiment of the people. I am very well acquainted with the Hawaiians. I know them, and they know me better than I know them.

Judge HUMPHREYS. Mr. Castle, you use the term annual settlement; you didn't mean to exclude the appropriation of a sum in solido?

Mr. CASTLE. No, no. Of course, an annual stipend would prevent any possibility of losses and provide a definite amount from year to year.

Judge HUMPHREYS. You also take into consideration that it is subject to vote?

Mr. CASTLE. Yes.

Judge HUMPHREYS. The same benefit might not be voted again?

Mr. CASTLE. Yes; although I don't think Americans would do that with a financial obligation.

THEODORE F. LANSING, sworn.

Mr. LANSING. Age, 51; residence, Honolulu; occupation, commission agent and insurance agent.

Senator BURTON. Where are you a native of?

Mr. LANSING. New York State.

Senator BURTON. How long have you lived in the islands?

Mr. LANSING. This is my twentieth year in residence.

Senator BURTON. Did you hold any official position under the provisional government?

Mr. LANSING. From memory I am unable to say whether the commission as a member of the board of health commenced under the provisional government or not until the government of the republic of Hawaii. The dates I don't remember.

Senator BURTON. You held such a position under the provisional government, then?

Mr. LANSING. Under the provisional government, possibly commenced under the provisional government. I am not able to say from memory.

Senator BURTON. Any other position you held under the provisional government or the republic of Hawaii?

Mr. LANSING. Under the government of the republic of Hawaii I hold pro tempore the position as minister of finance during the absence of Mr. Damon to the coast.

Senator BURTON. Were you a member of the committee of safety?

Mr. LANSING. I was.

Senator BURTON. Without reference to the questions involved in the dethronement of the Queen, and the action of the provisional government of the republic of Hawaii or the United States in seizing the crown lands or any property of the Queen, what, in your opinion, is the sentiment in Hawaii toward the Queen, and what, in your opinion, should be done for her by the Federal Government?

Mr. LANSING. I think the sentiment of the people of these islands is pretty thoroughly expressed by the first legislature, which made an annual appropriation for her, and that there has been since then no voice raised against it by anyone in the islands, but, on the contrary, nearly all the political parties that have been formed here have in their platform indorsed an annual appropriation for her maintenance. The matter of the Federal Government assuming to pay the ex-Queen an amount in a lump sum, to be decided by them, would unquestionably meet with the hearty indorsement of every citizen, and every resident in the island, native born or those who have adopted the country, and I think the sentiment of the community is pretty thoroughly expressed by the gentlemen who have testified before me.

C. BOLTE sworn.

Mr. BOLTE. Age, 49; occupation, commission merchant; residence, Honolulu. I have lived here twenty-four years.

Senator BURTON. Where are you a native of?

Mr. BOLTE. Germany.

Senator BURTON. Lived here how long?

Mr. BOLTE. Twenty-four years.

Senator BURTON. You were a member of the committee of safety?

Mr. BOLTE. I was.

Senator BURTON. Did you hold any office under the Monarchy?

Mr. BOLTE. I did not.

Senator BURTON. Any under the provisional government?

Mr. BOLTE. I was a member of the provisional government.

Senator BURTON. Any under the Republic of Hawaii?

Mr. BOLTE. No, unless a member of a small road board across the island. Don't count that.

Senator BURTON. You are well acquainted in the islands?

Mr. BOLTE. I am.

Senator BURTON. Without reference to the questions involved in

the dethronement of the Queen and the action of the provisional government, or the Republic of Hawaii, or the United States in seizing the Crown lands, or any property of the Queen, what, in your opinion, is the sentiment in Hawaii toward the Queen, and what, in your opinion, should be done for her by the Federal Government?

Mr. BOLTE. I think the same amount of money that was appropriated immediately after the provisional government was established should be paid to her, same as if it had been paid right straight along.

Judge HUMPHREYS. That is your opinion?

Mr. BOLTE. I think it is the same with my friends for that sum.

Judge HUMPHREYS. How much was that?

Mr. BOLTE. I don't know whether it was one thousand or two thousand a month.

Judge HUMPHREYS. It was \$20,000 a year.

Mr. BOLTE. I am speaking of a different amount. It was paid out actually. You will find it in the appropriation. We are talking of two different things.

Senator BURTON. What do you say that the Federal Government should do?

Mr. BOLTE. I think that the Federal Government should do nothing. I think that is our own affair. We ought to settle that ourselves. We ought to pay that out of our own income, this Territory.

Senator BURTON. You don't think the Federal Government ought to recognize any obligation?

Mr. BOLTE. Yes; that is our own affair, and we ought to settle that. Some payments were made in 1894. It should have been continued, and no doubt would have been continued right straight along if there had been no interruptions.

Judge HUMPHREYS. Mr. Bolte, your view as to whether or not the payment should be made to the Queen by the United States or by the Territory of Hawaii is not affected by the fact that in the cession of the Hawaiian Islands, under the joint resolution in the United States Congress providing for annexation, the United States acquired all of the public property and the customs receipts of the Territory of Hawaii of the Hawaiian Islands?

Mr. BOLTE. Yes.

Judge HUMPHREYS. Did you take that into consideration in coming to that conclusion as to whether or not this obligation was on the United States?

Mr. BOLTE. I did take that into consideration in so far as I am of the opinion that the income of the lands goes to the Territory. I think the Federal Government only draws the customs receipts.

Judge HUMPHREYS. It has the right of the disposition of the public lands?

Mr. BOLTE. The Territory, as I understand.

Judge HUMPHREYS. Subject to appeal?

Mr. BOLTE. I do not know.

GEORGE R. CARTER, sworn.

Mr. CARTER. Residence, Honolulu; 35 years old; occupation, a business man.

Senator BURTON. You are a member of the present State senate, are you not? I mean Territorial senate.

Mr. CARTER. I was elected a member the last session. My term expires this November.

Senator BURTON. You are still a member?

Mr. CARTER. Yes.

Senator BURTON. You have always lived in the islands? Native born?

Mr. CARTER. I was born here. I lived fifteen years in America, on the mainland, I will say. It was then not a part of us.

Senator BURTON. You are well acquainted in the islands here?

Mr. CARTER. Fairly so.

Senator BURTON. Have you held any other official position except member of the Territorial senate here?

Mr. CARTER. I was not—to amount to anything. I was acting auditor for a brief while during the sickness of the auditor under the Republic.

Senator BURTON. You are a graduate of Harvard College?

Mr. CARTER. A graduate of Yale College.

Senator BURTON. You are well acquainted with the sentiment of the people toward the ex-Queen?

Mr. CARTER. I think so.

Senator BURTON. Without reference to the questions involved in the dethronement of the Queen and the action of the provisional government or the Republic of Hawaii or the United States in seizing the Crown lands or any property of the Queen, what in your opinion is the sentiment in Hawaii toward the Queen and what in your opinion should be done for her by the Federal Government?

Mr. CARTER. The sentiment of the people toward her is one of great friendliness. I know of no one that bears her any ill will. The action of the Federal Government would be a gracious one if it should see fit to grant her an annuity, so as to provide for her and prevent her from ever experiencing any pecuniary suffering or prevent her from having such comforts, and, yes, luxuries as she has through her life been accustomed to.

Judge HUMPHREYS. You stated you were a member of the present senate?

Mr. CARTER. Yes.

Judge HUMPHREYS. State what ticket.

Mr. CARTER. On the Republican ticket.

E. D. TENNEY, sworn.

Mr. TENNEY. I reside in Honolulu, and have for about twenty-three years. My age is 43.

Judge HUMPHREYS. Mr. Tenney, did you hold any position under the provisional government?

Mr. TENNEY. I was a member of the advisory council of the provisional government.

Judge HUMPHREYS. Mr. Tenney, you have resided in the Hawaiian Islands how long?

Mr. TENNEY. Twenty-five years.

Judge HUMPHREYS. Your acquaintance with the people of the Territory is somewhat extensive?

Mr. TENNEY. Well, I am acquainted to some extent.

Judge HUMPHREYS. What is your present occupation?

Mr. TENNEY. Merchant.

Judge HUMPHREYS. What sort?

Mr. TENNEY. Sugar factors and commission merchants.

Judge HUMPHREYS. Largely identified with the sugar interests?

Mr. TENNEY. To some extent.

Judge HUMPHREYS. The firm you represent largely so?

Mr. TENNEY. Yes, sir.

Judge HUMPHREYS. Mr. Tenney, do you know the prevailing sentiment of the people of this Territory as to the settlement upon the ex-Queen of a sum of money?

Mr. TENNEY. I can't say what the prevailing sentiment is; I know the sentiment of some people.

Judge HUMPHREYS. The sentiment of the people with whom you have discussed it?

Mr. TENNEY. The sentiment of the people with whom I have discussed it is practically universal that some provision should be made for the ex-Queen, preferably some annual provision; that it would be a graceful act for the United States Government to make such appropriation and it would tend to smooth over the friction incident to the change of government by the annexation of the Hawaiian Islands to the United States.

J. A. McCANDLESS, sworn.

Mr. McCANDLESS. Age, 49 years; residence in Honolulu; occupation that of a business man.

Senator BURTON. Did you hold any office under the monarchy?

Mr. McCANDLESS. No, sir.

Senator BURTON. Under the provisional government?

Mr. McCANDLESS. I was a member of the committee of safety and a member of the advisory council during the existence of the provisional government.

Senator BURTON. Have you held any other office under the republic of Hawaii?

Mr. McCANDLESS. I was a senator; belonged to the legislature during the entire period of the republic of Hawaii.

Senator BURTON. Do you hold any position now under the Territory?

Mr. McCANDLESS. No.

Senator BURTON. Without reference to the questions involved in the dethronement of the Queen and the action of the provisional government or the republic of Hawaii or the United States in seizing the crown lands or any property of the Queen, what, in your opinion, is the sentiment in Hawaii toward the Queen, and what, in your opinion, should be done for her by the Federal Government?

Mr. McCANDLESS. The sentiment is well expressed in the platforms of the different political parties here. They all pledge themselves to an annuity to the Queen in order to keep her from financial embarrassment, so that she can continue to enjoy the comforts she has always had. As for whatever the United States may do, of course that is their affair. It would be considered here with great satisfaction if the United States did make such a provision in the shape of an annuity. Of course it would be considered a very gracious act.

W. O. SMITH, recalled.

Senator BURTON. You know the question, Mr. Smith, as to the sentiment of the people of Hawaii toward the Queen and how they would receive the action of the Federal Government in making provision for

her. What is your opinion? Give your opinion with regard to that matter; also give your opinion as to what should be done.

Mr. SMITH. I think it would gratify the people of this country if the United States Government made some provision for her, and an ample provision. As far as I feel myself, I feel just as Mr. Thurston, and Mr. Carter, and the others, Mr. Castle, as expressed from the very beginning. A commission went on from here within ten days after the overthrow of the monarchy, and from that time the disposition has been to provide for the ex-Queen. She had the salary for a considerable time afterwards, both under the provisional government and the Republic, and an effort was made to induce her to take a provision from the local government here, which for a while she declined, not directly, but indirectly, through her friends. It is only since the Territory has been established that she has accepted this appropriation of \$15,000 for the two years, \$7,500 a year. As has been stated, the platform of the Republican party has expressed its sentiment. She is the last sovereign of a really distinguished line of kings and chiefs. They were distinguished in this country, and they were entitled to be considered distinguished men, if the circumstances are taken into consideration, mentally and physically. She is the last of them. The Hawaiian people have great regard and reverence for their aliis, for their chiefs, and for the throne. We all had great respect for the Government, and it would be an acceptable and gracious thing if she could be provided for liberally.

J. B. ATHERTON, sworn.

Mr. ATHERTON. Age, 65; Honolulu. I have lived here forty-three years. I am president of Castle & Cooke, Limited.

Senator BURTON. Are you a native of Hawaii?

Mr. ATHERTON. Boston, Mass.

Senator BURTON. Were you a member of the committee of safety?

Mr. ATHERTON. I was not.

Judge HUMPHREYS. How long have you resided here?

Mr. ATHERTON. Twenty-three years.

Judge HUMPHREYS. What is the business engaged in by Castle & Cooke?

Mr. ATHERTON. Sugar factors.

Judge HUMPHREYS. Agents for a number of plantations?

Mr. ATHERTON. Agents for a number of plantations.

Judge HUMPHREYS. The firm controls a number of plantations through their contracts with them as agents?

Mr. ATHERTON. We are agents for a term of years.

Judge HUMPHREYS. Mr. Atherton, will you state what is the prevailing sentiment here, as far as you gather with conversation with neighbors and friends and others with whom you come in contact, with reference to the sentiment of the people of a settlement by the United States upon the ex-Queen?

Mr. ATHERTON. I believe it would be a very gracious act for the United States Government to give the ex-Queen a liberal compensation from year to year.

Judge HUMPHREYS. That is your personal opinion?

Mr. ATHERTON. It is also the opinion of my friends, I believe.

Judge HUMPHREYS. What would be the effect of such a settlement?

Mr. ATHERTON. I believe it would be a help to allay the friction that has always existed between the Hawaiians and the people who overthrew the government and the United States for its annexation.

ANDREW BROWN, recalled.

Senator BURTON. Mr. Brown, you stated, I believe, heretofore, the length of your residence?

Mr. BROWN. I did.

Senator BURTON. How long?

Mr. BROWN. Twenty-five years.

Senator BURTON. You were a member of the committee of safety?

Mr. BROWN. I was.

Senator BURTON. State, Mr. Brown, if you are acquainted with the prevailing sentiment in your Territory as to the attitude of the people of this Territory toward the ex-Queen.

Mr. BROWN. Well, it is my opinion and I think the opinion of the public in general that the United States ought to do something handsome for the ex-Queen for the loss of the crown lands. I would further state that I would like you three gentlemen, when you go home to Washington, to recommend that a certain sum be set aside for that purpose.

Senator BURTON. Why do you recommend this?

Mr. BROWN. Because it would reconcile the feeling between the American nation and the Hawaiians; it would cause all friction to cease and make us one happy family.

Judge HUMPHREYS. You would reimburse her for the loss of the crown lands?

Mr. BROWN. To a certain extent. I would leave it to these three gentlemen to recommend to Congress in Washington.

L. L. McCANDLESS, sworn.

Mr. McCANDLESS. Age, 43; doing business here of different varieties, cattle ranching, cattle business; Honolulu; been here twenty years.

Judge HUMPHREYS. Mr. McCandleless, have you held any public position in this Territory?

Mr. McCANDLESS. No public position. A member of the legislature in 1898.

Judge HUMPHREYS. Under the Republic?

Mr. McCANDLESS. Under the Republic.

Judge HUMPHREYS. Hold any public position now?

Mr. McCANDLESS. No, sir.

Judge HUMPHREYS. Are you acquainted with the prevailing sentiment of the people of this Territory with reference to their attitude toward the ex-Queen?

Mr. McCANDLESS. Partially.

Judge HUMPHREYS. What is it?

Mr. McCANDLESS. Well, there has been a feeling here that the ex-Queen should have some provision made for her. The sentiment of the last legislature was expressed in that line, and it was also expressed in the platform of the Republican party two years ago that there should be an appropriation set apart to provide for her.

Judge HUMPHREYS. Was the vote on that \$15,000 unanimous in the house?

Mr. McCANDLESS. I think so. I am not positive.

Judge HUMPHREYS. Signed by Mr. Cooper, acting governor?

Mr. McCANDLESS. Yes, sir.

Judge HUMPHREYS. You concur in the view as to the sentiment here as to what ought to be done, do you, by the Federal Government?

Mr. McCANDLESS. By the Federal Government or even by the Territorial government.

Mr. J. L. KAULUKOU, sworn.

Judge HUMPHREYS. You are a native Hawaiian?

Mr. KAULUKOU. Yes, sir.

Judge HUMPHREYS. You are a member of what is called the Hawaiian race?

Mr. KAULUKOU. Yes, sir.

Judge HUMPHREYS. How old are you?

Mr. KAULUKOU. I am going on 51.

Judge HUMPHREYS. What is your occupation?

Mr. KAULUKOU. Attorney-at-law.

Judge HUMPHREYS. Did you hold any official position under any Hawaiian monarchy?

Mr. KAULUKOU. I think I have.

Judge HUMPHREYS. What position?

Mr. KAULUKOU. Is there any necessity to mention that?

Judge HUMPHREYS. Well, I would like to know. I want to identify you and show your interest in the country throughout, under different governments; show your status.

Mr. KAULUKOU. I was judge of the district court, judge under the monarchy. I was high sheriff of the island of Hawaii under the monarchy. I was postmaster-general of the kingdom under the monarchy. I was marshal under the monarchy. I was attorney-general of the kingdom under the monarchy. I was a member of the house of representatives for five terms, from 1880 up to 1886, up to 1898.

Judge HUMPHREYS. You didn't hold all these at once?

Mr. KAULUKOU. No.

Judge HUMPHREYS. Were you a noble?

Mr. KAULUKOU. No; I was not. I was a member of the privy council of the state under the monarchy and a member of the board of education. I think that is enough.

Judge HUMPHREYS. There was not any other office for you to hold. Did you hold any position under the republic of Hawaii?

Mr. KAULUKOU. I was a member of the house of representatives in 1898.

Judge HUMPHREYS. Under the republic in 1898.

Mr. KAULUKOU. In 1898.

Judge HUMPHREYS. You have a wide acquaintance with the Hawaiians and other peoples in the Territory of Hawaii, have you not?

Mr. KAULUKOU. I have.

Judge HUMPHREYS. What is the prevailing sentiment in regard to a settlement by the United States upon the ex-Queen of a sum of money?

Mr. KAULUKOU. From my own opinion, I am in favor for the Federal Government to give some good reward or some money for the Queen.

Judge HUMPHREYS. What is the sentiment of your neighbors and friends and the people with whom you come in contact?

Mr. KAULUKOU. That is the same feeling with the people here among foreigners and Hawaiians.

Judge HUMPHREYS. The general sentiment?

Mr. KAULUKOU. General sentiment; yes.

Judge HUMPHREYS. What result would come of such a course pursued by the United States?

Mr. KAULUKOU. I presume it would settle the ill-feeling between the people.

Judge HUMPHREYS. You think it would tend to harmonize matters and promote the public good here?

Mr. KAULUKOU. Yes.

Judge HUMPHREYS. The native people regard the Queen very highly and have a personal regard for her?

Mr. KAULUKOU. Yes.

Judge HUMPHREYS. Is the Queen a wealthy woman?

Mr. KAULUKOU. I don't know much about it. She has got some property, but she has spent a great deal.

Judge HUMPHREYS. She takes care of a great many people?

Mr. KAULUKOU. She takes care of a good many, and always has taken care of her people and try the best she can to look after them; and when she went to Washington she spent money there, and I think she is a poor woman to-day.

Judge HUMPHREYS. From the earliest times it has been the custom for the aliis or chiefs to support their people?

Mr. KAULUKOU. Yes, sir.

Judge HUMPHREYS. She provides for a number of people?

Mr. KAULUKOU. Yes.

Judge HUMPHREYS. Feeble and aged Hawaiians?

Mr. KAULUKOU. Yes.

WILLIAM W. HALL, sworn.

Mr. HALL. Age, 61; occupation, merchant.

Judge HUMPHREYS. How long have you lived here?

Mr. HALL. I was born in Honolulu.

Judge HUMPHREYS. Lived here all your life?

Mr. HALL. Lived here all my life.

Judge HUMPHREYS. Raised a family here, have you not?

Mr. HALL. Yes; I have a family.

Judge HUMPHREYS. You are identified with the business interests here?

Mr. HALL. I am president of the corporation E. O. Hall & Son, Limited.

Judge HUMPHREYS. Wholesale dealers in hardware?

Mr. HALL. Hardware generally.

Judge HUMPHREYS. Capital stock?

Mr. HALL. \$250,000.

Judge HUMPHREYS. Mr. Hall, having lived all your life here and attained the age of 61 years, you have doubtless a wide acquaintance with the people of this Territory?

Mr. HALL. Yes, sir; I am well acquainted with the natives and foreigners.

Judge HUMPHREYS. On this and other islands?

Mr. HALL. Yes; all the islands.

Judge HUMPHREYS. The general sentiment is that the settlement of a sum of money upon the ex-Queen as far as you have been able to gather from your conversation with your neighbors and friends and the people with whom you come in contact personally, would be received how?

Mr. HALL. My own feeling is that I think that it would be a very just and graceful thing on the part of the Congress of the United States Government to compensate the Queen handsomely, and I think it is the feeling of my neighbors and friends.

Judge HUMPHREYS. What would be the result of such a course if pursued by the United States; would it tend to promote the public good and create better feeling?

Mr. HALL. I think it would, decidedly. There is more or less friction between the Hawaiians in regard to this matter, and I think it would have a tendency—I feel sure that it would have a tendency to allay that feeling.

Judge HUMPHREYS. Viewing it from the standpoint of public policy, you would regard such a settlement as wise?

Mr. HALL. I would, certainly.

Mr. COOKE, sworn.

Judge HUMPHREYS. Mr. Cooke, what is your age?

Mr. COOKE. Fifty-three.

Judge HUMPHREYS. Full name?

Mr. COOKE. Charles M. Cooke.

Judge HUMPHREYS. How long have you resided here?

Mr. COOKE. Fifty-three years.

Judge HUMPHREYS. All of your natural life?

Mr. COOKE. Yes.

Judge HUMPHREYS. What is your occupation?

Mr. COOKE. I am president of the Bank of Hawaii.

Judge HUMPHREYS. What is the capital of the bank?

Mr. COOKE. \$600,000 paid-up capital.

Judge HUMPHREYS. Are you largely interested in the finances of the Hawaiian Islands?

Mr. COOKE. Yes, sir; more or less.

Judge HUMPHREYS. Identified with the business interests of the community?

Mr. COOKE. Yes.

Judge HUMPHREYS. Mr. Cooke, you have heard the question I propounded to Mr. Hall. I will ask you to express your opinion and the opinion of your neighbors and friends and others with whom you have come in contact as to the settlement of a sum of money upon the Queen.

Mr. COOKE. My opinion is to allow the appropriation of an annuity to the Queen during her life; that it would be the right thing, and I think that the opinion of those I have talked with is the same. I know from the start the feeling was of sympathy; as far as financial matters were concerned, the feeling was to provide for her.

Judge HUMPHREYS. You think that is the opinion of the people with whom you have talked?

Mr. COOKE. I think so.

Judge HUMPHREYS. The general sentiment?

Mr. COOKE. I think it is the general sentiment, especially among Hawaiians, who have a great aloha for the ex-Queen.

ALBERT B. LOEBENSTEIN, recalled.

Judge HUMPHREY. How long have you resided in the islands?

Mr. LOEBENSTEIN. Twenty-five years.

Judge HUMPHREYS. Have you a wide acquaintance among the people of the Territory?

Mr. LOEBENSTEIN. Yes.

Judge HUMPHREYS. Did you occupy any position of a political nature under the republic or provisional government?

Mr. LOEBENSTEIN. Under the republic of Hawaii, yes; I was a member of the house of representatives in 1898.

Judge HUMPHREYS. Any other position?

Mr. LOEBENSTEIN. Prior to that government land agent during the monarchy and up to the time of the promulgation of the republic of Hawaii. Also a member of local elective offices.

Judge HUMPHREYS. What is the prevailing sentiment in the Hawaiian Islands, as you have discovered it in conversation with your neighbors and friends and the people generally, in regard to the settlement by the United States upon the ex-Queen of a sum of money?

Mr. LOEBENSTEIN. Well, speaking more particularly of the island of Hawaii—

Judge HUMPHREYS. You reside there?

Mr. LOEBENSTEIN. Yes; the native Hawaiians look for some solution of the crown lands, which they believe belong to the Queen, and either the recouping to her of the equivalent of the crown lands in money or the lands to be surrendered to her, which they believe she was possessed of at the time of the overthrow of the monarchy.

Judge HUMPHREYS. Foreigners as well as Hawaiians; what is the general feeling?

Mr. LOEBENSTEIN. That some action should be taken looking toward the recouping to her of the loss which she has suffered. The actual loss of revenue to her from the crown lands alone would be about \$40,000 per annum.

Judge HUMPHREYS. What effect would such a disposition of the matter we are discussing by the United States have here?

Mr. LOEBENSTEIN. It would create a general good feeling as between the Hawaiians and what they consider the foreigners.

Judge HUMPHREYS. Would you say that such a course, if pursued, would promote the public good?

Mr. LOEBENSTEIN. Most assuredly so.

Dr. CHARLES B. COOPER, sworn.

Judge HUMPHREYS. Doctor, how long have you resided in the Hawaiian Islands?

Dr. COOPER. Since 1891.

Judge HUMPHREYS. What country?

Dr. COOPER. United States, mainland. New York is my native State.

Judge HUMPHREYS. Do you hold any official position at the present time?

Dr. COOPER. Yes, sir.

Judge HUMPHREYS. What?

Dr. COOPER. Member of the board of health and physician.

Judge HUMPHREYS. You are in active practice of your business as physician and surgeon in Honolulu?

Dr. COOPER. I am.

Judge HUMPHREYS. As such you are brought in contact with all elements of Honolulu?

Dr. COOPER. Yes.

Senator BURTON. Are you not connected with Quarantine Island?

Dr. COOPER. No.

Judge HUMPHREYS. State what the prevailing sentiment is in the Hawaiian Islands, as far as you have been able to gather from your professional and social contact, as to a settlement by the United States upon the ex-Queen of a sum of money.

Dr. COOPER. Well, I think that the general feeling is that something should be done in justice to the ex-Queen, whether by the Territory or by the United States. She should have some annual annuity to enable her to live in luxury.

Judge HUMPHREYS. The settlement of a sum of money in a lump?

Dr. COOPER. I have not heard anything expressed in that regard.

Judge HUMPHREYS. You have not heard that discussed?

Dr. COOPER. Not particularly. I have heard both sides.

Judge HUMPHREYS. What, in your opinion, would be the effect of such a course?

Dr. COOPER. It certainly would not engender any ill feeling if it were done.

Judge HUMPHREYS. Well, do you think it would tend to promote the public good?

Dr. COOPER. I think so.

R. W. WILCOX, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. WILCOX. Robert W. Wilcox; age, 47; Delegate to Congress.

Senator MITCHELL. You are the present Delegate to Congress for this Territory?

Mr. WILCOX. Yes.

Senator MITCHELL. Native of the Territory?

Mr. WILCOX. Yes.

Judge HUMPHREYS. Mr. Wilcox, in making a campaign for the position that you now hold did you travel through the Territory generally?

Mr. WILCOX. All over the islands.

Senator MITCHELL. You were brought in contact with people of all classes?

Mr. WILCOX. Yes.

Judge HUMPHREYS. Your acquaintance in the Territory is a wide and extensive acquaintance, is it not?

Mr. WILCOX. It is.

Judge HUMPHREYS. I will ask you to state the sentiment of the people of this Territory, without reference to race, in regard to a settlement of a sum of money upon the ex-Queen.

Mr. WILCOX. The general feeling all over the country, all classes of people, is to give the Queen a big compensation for her loss of the crown land and her position as a Queen.

Judge HUMPHREYS. What, in your opinion, would be the effect of such a settlement by the United States on the ex-Queen?

Mr. WILCOX. The Territorial government got out of the crown

Judge HUMPHREYS. You were the Democratic nominee for Congress two years ago?

Prince DAVID. Yes.

Judge HUMPHREYS. As such you made a thorough canvass of the Territory?

Prince DAVID. Yes.

Judge HUMPHREYS. You were brought into contact with the different classes of people?

Prince DAVID. Yes.

Judge HUMPHREYS. The opinion expressed here is based upon the expression of views you have heard from time to time during your talking with the people of the Territory?

Prince DAVID. Yes.

Judge HUMPHREYS. Your brother is the present Republican candidate for Congress?

Prince DAVID. Yes.

CHARLES BARNARD WILSON, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. WILSON. Age, 52; residence, Honolulu; occupation, master mechanic.

Senator MITCHELL. How long have you lived in these islands?

Mr. WILSON. About forty-five years.

Senator MITCHELL. Are you a native?

Mr. WILSON. No.

Senator MITCHELL. Where were you born?

Mr. WILSON. Born at sea.

Senator MITCHELL. Are you an American citizen?

Mr. WILSON. I am.

Senator MITCHELL. Are you acquainted with the prevailing sentiment of the people, irrespective of race or condition, toward the ex-Queen?

Mr. WILSON. To a great degree I am. I do.

Senator MITCHELL. What is that sentiment?

Mr. WILSON. Well, it seems to me that she has not been properly treated. That is the general opinion.

Senator MITCHELL. The sentiment is one of friendliness, one of consideration toward her, is it, or otherwise?

Mr. WILSON. I don't quite understand.

Senator MITCHELL. Is the sentiment of the people of this Territory toward the ex-Queen one of friendliness or not?

Mr. WILSON. Yes; it is.

Senator MITCHELL. What is the sentiment of the people, if you now, with reference to the propriety of Congress making some provision for her?

Mr. WILSON. Oh, the Hawaiian people, the majority, think that she should be paid something for the loss she has sustained by the overthrow.

Judge HUMPHREYS. Mr. Wilson, what, in your opinion, would be the effect of such a course, if pursued, by Congress making such a settlement?

Mr. WILSON. What do you mean?

Judge HUMPHREYS. Well, would it tend to promote the public good?

Mr. WILSON. Well, I believe it would bring about better feeling between the American people by the Hawaiians.

Judge HUMPHREYS. You limit your answer to the Hawaiian people? I would like to ask whether or not what you have stated is the feeling generally?

Mr. WILSON. Well, it is.

Judge HUMPHREYS. Mr. Wilson, of what country are you a native?

Mr. WILSON. I am a Britisher.

Judge HUMPHREYS. Are you not a Tahitian?

Mr. WILSON. My mother was.

Judge HUMPHREYS. Mr. Wilson, I desire to inquire whether or not you were a delegate to the last national Republican convention?

Mr. WILSON. I was alternate.

Mr. C. H. BROWN, sworn.

Mr. BROWN. Forty-four years of age; reside at Honolulu.

Senator MITCHELL. State what official position you hold in connection with this commission?

Mr. BROWN. Sergeant-at-arms.

Judge HUMPHREYS. I will ask you if you received a subpoena for Henry Waterhouse?

Mr. BROWN. I did. He is in New York City.

Judge HUMPHREYS. You were unable to serve it?

Mr. BROWN. Yes.

Judge HUMPHREYS. F. W. McChestney?

Mr. BROWN. I subpoenaed him. He left on the *Mounaloe*.

Judge HUMPHREYS. When did he leave?

Mr. BROWN. He left on the *Mounaloe*.

Senator BURTON. He will probably be back?

Senator MITCHELL. He may be back during the week.

JOHN L. HOPKINS, sworn.

Mr. HOPKINS. Age, 49; residence, Honolulu; occupation, Hawaiian interpreter of the circuit court and commissioner of education.

Senator MITCHELL. You are a native Hawaiian?

Mr. HOPKINS. I am.

Senator MITCHELL. Are you acquainted with the sentiment of the people of this Territory, irrespective of race, toward the Queen?

Mr. HOPKINS. Yes.

Senator MITCHELL. What is that sentiment.

Mr. HOPKINS. It is a friendly sentiment.

Senator MITCHELL. Is she a lady that is held in high respect in this Territory?

Mr. HOPKINS. She is.

Senator MITCHELL. What is the sentiment of the Territory, if you know, with reference to the propriety of the Federal Government's making some provision for her?

Mr. HOPKINS. I believe the sentiment is that it would be a just act upon the part of the United States to do so.

Senator MITCHELL. What is your view of the question?

Mr. HOPKINS. Just the same.

Judge HUMPHREYS. What official position do you hold at present?

Mr. HOPKINS. I am Hawaiian interpreter of the first circuit court and commissioner of education.

- Senator MITCHELL. Where are you a native of?
- Mr. PRENDERGAST. Hawaii.
- Senator MITCHELL. Lived here all your life?
- Mr. PRENDERGAST. Yes, sir.
- Senator MITCHELL. Are you acquainted with the sentiment of the people here in this Territory with reference to the ex-Queen?
- Mr. PRENDERGAST. Yes, sir. The Hawaiians feel that the Crown land belongs to the Queen, and that she ought to be paid for it.
- Senator MITCHELL. I want to know respecting the feeling toward her—is it kindly?
- Mr. PRENDERGAST. Very; yes, sir.
- Senator MITCHELL. She has good standing as a woman, has she, in this Territory?
- Mr. PRENDERGAST. Yes, sir.
- Senator MITCHELL. What is the sentiment with reference to the advisability of Congress making some provision for the ex-Queen?
- Mr. PRENDERGAST. I think it will harmonize the ill feeling in this country.
- Judge HUMPHREYS. You were a member of the last legislature?
- Mr. PRENDERGAST. Yes, sir.
- Judge HUMPHREYS. You have a wide acquaintance among the people of this Territory?
- Mr. PRENDERGAST. Yes, sir.
- Judge HUMPHREYS. And you think that a settlement upon the Queen by the United States would promote the public good?
- Mr. PRENDERGAST. Yes, sir.
- Judge HUMPHREYS. Is that the general opinion without regard to race, as far as you have been able to gather it?
- Mr. PRENDERGAST. Yes, sir.
- Mr. E. S. BOYD, recalled.
- Judge HUMPHREYS. Mr. Boyd, what is your name, E. S. or E. M.?
- The governor corrected me.
- Mr. BOYD. E. S.
- Judge HUMPHREYS. Are you the present land agent, commissioner of public lands of the Hawaiian Islands?
- Mr. BOYD. I am.
- Judge HUMPHREYS. Mr. Boyd, will you state the revenue from the Crown lands in 1893?
- Mr. BOYD. Well, I can not. I can approximately state.
- Judge HUMPHREYS. State from the report in front of you.
- Mr. BOYD. It is between \$35,000 and \$40,000.
- Judge HUMPHREYS. Will you kindly ascertain from data in your office the net amount of revenue from the Crown lands upon January 1, 1893, up to and including the present time?
- Mr. BOYD. That is being brought up, upon your request.
- Judge HUMPHREYS. Will you kindly furnish it to the committee this afternoon—that information, not in detail, but simply the amount received from year to year during the period named—that is, from January 1, 1893, to January 1, 1902?
- Mr. BOYD. That is—I would not promise it this afternoon. It is in a state of preparation now, and it will be finished in a day or so.
- Judge HUMPHREYS. You will furnish it as soon as it is finished?

Mr. BOYD. I can give information to a certain part of your examination now.

Judge HUMPHREYS. Mr. Boyd, do you know the sentiment of the people in the islands generally as to the United States making a settlement upon the ex-Queen?

Mr. BOYD. The prevailing sentiment has been to give her a certain stipend or liberal compensation. That is the general opinion.

Senator FOSTER. In the form of an annuity?

Mr. BOYD. I have not heard any party that I was speaking with express any other opinion but that.

Senator FOSTER. That is the prevailing sentiment?

Mr. BOYD. That is the prevailing sentiment.

Judge HUMPHREYS. In your opinion would it tend to promote the public good?

Mr. BOYD. It would. I think it is justice to her to make an equitable settlement for the loss of the crown rights.

Judge HUMPHREYS. Loss of the crown rights?

Mr. BOYD. Loss of the crown rights. And it will harmonize the public to a considerable extent.

Senator BURTON. Mr. Boyd, I will ask you one question. I think you said yesterday—and it is not in the record—when the Governor was on the stand, that an alien could not acquire lands here.

Mr. BOYD. He could not—homestead land. He could not acquire a holding; could not make entry or application.

Senator BURTON. Can they acquire lands by purchase?

Mr. BOYD. At auction sale I think they have the right. The government does not go into the cash sale business very often.

Senator BURTON. Could an alien purchase one of these right-of-purchase leases if it was put up at auction?

Mr. BOYD. No, sir; he has to make affidavit that he is a Hawaiian, now an American citizen, or has received letters or applied for naturalization papers.

Senator BURTON. That is where he homesteads?

Mr. BOYD. Yes.

Senator BURTON. But he may acquire by purchase without declaring his purpose to be a citizen?

Mr. BOYD. That is under a cash sale.

JOHN EMMELUTH, recalled.

Senator BURTON. Were you a member of the committee of safety?

Mr. EMMELUTH. I was.

Senator BURTON. Did you hold any position under the monarchy?

Mr. EMMELUTH. I did not.

Senator BURTON. Did you hold any position under the provisional government?

Mr. EMMELUTH. When I say I did not, I held a position, possibly, as prison inspector; never any salaried office.

Senator BURTON. Did you hold any position under the provisional government?

Mr. EMMELUTH. I did not, any salaried position. I have held a position as a member of the advisory council.

Senator BURTON. Did you hold any position under the republic?

Mr. EMMELUTH. I did not.

Judge HUMPHREYS. The general sentiment is that the settlement of a sum of money upon the ex-Queen as far as you have been able to gather from your conversation with your neighbors and friends and the people with whom you come in contact personally, would be received how?

Mr. HALL. My own feeling is that I think that it would be a very just and graceful thing on the part of the Congress of the United States Government to compensate the Queen handsomely, and I think it is the feeling of my neighbors and friends.

Judge HUMPHREYS. What would be the result of such a course if pursued by the United States; would it tend to promote the public good and create better feeling?

Mr. HALL. I think it would, decidedly. There is more or less friction between the Hawaiians in regard to this matter, and I think it would have a tendency—I feel sure that it would have a tendency to allay that feeling.

Judge HUMPHREYS. Viewing it from the standpoint of public policy, you would regard such a settlement as wise?

Mr. HALL. I would, certainly.

Mr. COOKE, sworn.

Judge HUMPHREYS. Mr. Cooke, what is your age?

Mr. COOKE. Fifty-three.

Judge HUMPHREYS. Full name?

Mr. COOKE. Charles M. Cooke.

Judge HUMPHREYS. How long have you resided here?

Mr. COOKE. Fifty-three years.

Judge HUMPHREYS. All of your natural life?

Mr. COOKE. Yes.

Judge HUMPHREYS. What is your occupation?

Mr. COOKE. I am president of the Bank of Hawaii.

Judge HUMPHREYS. What is the capital of the bank?

Mr. COOKE. \$600,000 paid-up capital.

Judge HUMPHREYS. Are you largely interested in the finances of the Hawaiian Islands?

Mr. COOKE. Yes, sir; more or less.

Judge HUMPHREYS. Identified with the business interests of the community?

Mr. COOKE. Yes.

Judge HUMPHREYS. Mr. Cooke, you have heard the question I propounded to Mr. Hall. I will ask you to express your opinion and the opinion of your neighbors and friends and others with whom you have come in contact as to the settlement of a sum of money upon the Queen.

Mr. COOKE. My opinion is to allow the appropriation of an annuity to the Queen during her life; that it would be the right thing, and I think that the opinion of those I have talked with is the same. I know from the start the feeling was of sympathy; as far as financial matters were concerned, the feeling was to provide for her.

Judge HUMPHREYS. You think that is the opinion of the people with whom you have talked?

Mr. COOKE. I think so.

Judge HUMPHREYS. The general sentiment?

Mr. COOKE. I think it is the general sentiment, especially among Hawaiians, who have a great aloha for the ex-Queen.

ALBERT B. LOEBENSTEIN, recalled.

Judge HUMPHREY. How long have you resided in the islands?

Mr. LOEBENSTEIN. Twenty-five years.

Judge HUMPHREYS. Have you a wide acquaintance among the people of the Territory?

Mr. LOEBENSTEIN. Yes.

Judge HUMPHREYS. Did you occupy any position of a political nature under the republic or provisional government?

Mr. LOEBENSTEIN. Under the republic of Hawaii, yes; I was a member of the house of representatives in 1898.

Judge HUMPHREYS. Any other position?

Mr. LOEBENSTEIN. Prior to that government land agent during the monarchy and up to the time of the promulgation of the republic of Hawaii. Also a member of local elective offices.

Judge HUMPHREYS. What is the prevailing sentiment in the Hawaiian Islands, as you have discovered it in conversation with your neighbors and friends and the people generally, in regard to the settlement by the United States upon the ex-Queen of a sum of money?

Mr. LOEBENSTEIN. Well, speaking more particularly of the island of Hawaii—

Judge HUMPHREYS. You reside there?

Mr. LOEBENSTEIN. Yes; the native Hawaiians look for some solution of the crown lands, which they believe belong to the Queen, and either the recouping to her of the equivalent of the crown lands in money or the lands to be surrendered to her, which they believe she was possessed of at the time of the overthrow of the monarchy.

Judge HUMPHREYS. Foreigners as well as Hawaiians; what is the general feeling?

Mr. LOEBENSTEIN. That some action should be taken looking toward the recouping to her of the loss which she has suffered. The actual loss of revenue to her from the crown lands alone would be about \$40,000 per annum.

Judge HUMPHREYS. What effect would such a disposition of the matter we are discussing by the United States have here?

Mr. LOEBENSTEIN. It would create a general good feeling as between the Hawaiians and what they consider the foreigners.

Judge HUMPHREYS. Would you say that such a course, if pursued, would promote the public good?

Mr. LOEBENSTEIN. Most assuredly so.

Dr. CHARLES B. COOPER, sworn.

Judge HUMPHREYS. Doctor, how long have you resided in the Hawaiian Islands?

Dr. COOPER. Since 1891.

Judge HUMPHREYS. What country?

Dr. COOPER. United States, mainland. New York is my native State.

Judge HUMPHREYS. Do you hold any official position at the present time?

Dr. COOPER. Yes, sir.

Judge HUMPHREYS. What?

Dr. COOPER. Member of the board of health and physician.

Judge HUMPHREYS. You are in active practice of your business as physician and surgeon in Honolulu?

Dr. COOPER. I am.

Judge HUMPHREYS. As such you are brought in contact with all elements of Honolulu?

Dr. COOPER. Yes.

Senator BURTON. Are you not connected with Quarantine Island?

Dr. COOPER. No.

Judge HUMPHREYS. State what the prevailing sentiment is in the Hawaiian Islands, as far as you have been able to gather from your professional and social contact, as to a settlement by the United States upon the ex-Queen of a sum of money.

Dr. COOPER. Well, I think that the general feeling is that something should be done in justice to the ex-Queen, whether by the Territory or by the United States. She should have some annual annuity to enable her to live in luxury.

Judge HUMPHREYS. The settlement of a sum of money in a lump?

Dr. COOPER. I have not heard anything expressed in that regard.

Judge HUMPHREYS. You have not heard that discussed?

Dr. COOPER. Not particularly. I have heard both sides.

Judge HUMPHREYS. What, in your opinion, would be the effect of such a course?

Dr. COOPER. It certainly would not engender any ill feeling if it were done.

Judge HUMPHREYS. Well, do you think it would tend to promote the public good?

Dr. COOPER. I think so.

R. W. WILCOX, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. WILCOX. Robert W. Wilcox; age, 47; Delegate to Congress.

Senator MITCHELL. You are the present Delegate to Congress for this Territory?

Mr. WILCOX. Yes.

Senator MITCHELL. Native of the Territory?

Mr. WILCOX. Yes.

Judge HUMPHREYS. Mr. Wilcox, in making a campaign for the position that you now hold did you travel through the Territory generally?

Mr. WILCOX. All over the islands.

Senator MITCHELL. You were brought in contact with people of all classes?

Mr. WILCOX. Yes.

Judge HUMPHREYS. Your acquaintance in the Territory is a wide and extensive acquaintance, is it not?

Mr. WILCOX. It is.

Judge HUMPHREYS. I will ask you to state the sentiment of the people of this Territory, without reference to race, in regard to a settlement of a sum of money upon the ex-Queen.

Mr. WILCOX. The general feeling all over the country, all classes of people, is to give the Queen a big compensation for her loss of the crown land and her position as a Queen.

Judge HUMPHREYS. What, in your opinion, would be the effect of such a settlement by the United States on the ex-Queen?

Mr. WILCOX. The Territorial government got out of the crown

land in the last ten years nearly \$1,000,000, and that \$1,000,000 would all go to the Queen if she was on the throne.

Judge HUMPHREYS. I asked what the effect would be.

Mr. WILCOX. To harmonize the people here in their feeling and make a good feeling toward the United States.

Senator MITCHELL. You would have to join the Republican party or go out of business.

Mr. WILCOX. No, I will always be a Home Ruler.

Governor SANFORD B. DOLE, recalled.

Senator MITCHELL. Governor, are you acquainted with the general sentiment of the people of this Territory with reference to the attitude of the people toward the ex-Queen—whether it is friendly or otherwise?

Governor DOLE. Yes, I think I am. I am not very intimately acquainted with it.

Senator MITCHELL. What is that sentiment, so far as you know?

Governor DOLE. That it is friendly; entirely friendly.

Senator MITCHELL. What is the feeling and sentiment of the people, as far as you know, as to the advisability of Congress making some provision for the Queen?

Governor DOLE. I think it is favorable.

Senator MITCHELL. You think it is favorable?

Governor DOLE. I think so.

Senator MITCHELL. What is your feeling upon the subject personally as governor of this Territory?

Governor DOLE. I think it would be a good policy for the United States.

Senator MITCHELL. Why?

Governor DOLE. It would be; I think it would do a great deal toward smoothing down some of the irritations caused by overturning their government. It would make the people feel that the United States was very friendly.

Senator MITCHELL. You think it would have a tendency to harmonize the people here?

Governor DOLE. Yes.

Senator MITCHELL. And bring them closely together?

Governor DOLE. Yes; I think so.

FRED WUNDENBURG, recalled.

Judge HUMPHREYS. Mr. Wundenburg, what is your age?

Mr. WUNDENBURG. I was born in 1850.

Judge HUMPHREYS. How long have you resided in the Hawaiian Islands?

Mr. WUNDENBURG. Nearly all my life.

Judge HUMPHREYS. Have you a wide acquaintance among the people of these islands?

Mr. WUNDENBURG. I have.

Judge HUMPHREYS. What is the prevailing sentiment in regard to a settlement upon the ex-Queen by the United States of a sum of money?

Mr. WUNDENBURG. I think the general impression is that the Queen is entitled to a substantial compensation for the loss of the revenue of the crown lands.

Judge HUMPHREYS. You believe that to be the prevailing sentiment of the people, generally, without reference to race?

Mr. WUNDENBURG. I think so.

Judge HUMPHREYS. What would be the effect of such a course, if pursued by the United States?

Mr. WUNDENBURG. I think it would be a favorable impression.

Judge HUMPHREYS. Do you think that it would promote the public good?

Mr. WUNDENBURG. Well, I think a favorable impression would naturally promote the public good.

Judge HUMPHREYS. That is what you mean by promoting a favorable impression, to promote the public good?

Mr. WUNDENBURG. I think so.

Judge HUMPHREYS. What official position did you hold at the time of the overthrow of the monarchy?

Mr. WUNDENBURG. I was clerk in the supreme court.

Judge HUMPHREYS. Did you continue to hold that position for a while after the establishment of the provisional government, when you retired?

Mr. WUNDENBURG. Yes.

Prince DAVID KAWANANAKOA, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Prince DAVID. Thirty-four; occupation, capitalist; Honolulu.

Senator MITCHELL. You are a native Hawaiian?

Prince DAVID. Yes, sir.

Senator MITCHELL. Have you lived in the islands most of your life?

Prince DAVID. Yes.

Senator MITCHELL. State if you are acquainted with the prevailing sentiment in regard to a settlement upon the ex-Queen.

Prince DAVID. In what respect?

Senator MITCHELL. First, what feeling have they for her? Is it one of friendliness, kindness, or one of hostility?

Prince DAVID. I think the prevailing opinion of the Hawaiians to-day is very friendly.

Senator MITCHELL. How about the other portion of the population?

Prince DAVID. I think the prevailing sentiment is the same amongst the white population here.

Senator MITCHELL. The sentiment, then, is one of friendliness through the Territory among all the people?

Prince DAVID. Yes.

Senator MITCHELL. State, if you know, what the sentiment of the people of the Territory, irrespective of race, is in reference to the appropriating by Congress of a sum of money making some provision for the ex-Queen.

Prince DAVID. I think that would also bring the Hawaiians much closer to the United States.

Senator MITCHELL. Do you think the sentiment for such a provision is favorable?

Prince DAVID. Yes.

Senator MITCHELL. You think the effect of an act of that kind upon the part of the Federal Congress would be to bring the people of the Territory closer together?

Prince DAVID. I think it would.

Judge HUMPHREYS. You were the Democratic nominee for Congress two years ago?

Prince DAVID. Yes.

Judge HUMPHREYS. As such you made a thorough canvass of the Territory?

Prince DAVID. Yes.

Judge HUMPHREYS. You were brought into contact with the different classes of people?

Prince DAVID. Yes.

Judge HUMPHREYS. The opinion expressed here is based upon the expression of views you have heard from time to time during your talking with the people of the Territory?

Prince DAVID. Yes.

Judge HUMPHREYS. Your brother is the present Republican candidate for Congress?

Prince DAVID. Yes.

CHARLES BARNARD WILSON, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. WILSON. Age, 52; residence, Honolulu; occupation, master mechanic.

Senator MITCHELL. How long have you lived in these islands?

Mr. WILSON. About forty-five years.

Senator MITCHELL. Are you a native?

Mr. WILSON. No.

Senator MITCHELL. Where were you born?

Mr. WILSON. Born at sea.

Senator MITCHELL. Are you an American citizen?

Mr. WILSON. I am.

Senator MITCHELL. Are you acquainted with the prevailing sentiment of the people, irrespective of race or condition, toward the ex-Queen?

Mr. WILSON. To a great degree I am. I do.

Senator MITCHELL. What is that sentiment?

Mr. WILSON. Well, it seems to me that she has not been properly treated. That is the general opinion.

Senator MITCHELL. The sentiment is one of friendliness, one of consideration toward her, is it, or otherwise?

Mr. WILSON. I don't quite understand.

Senator MITCHELL. Is the sentiment of the people of this Territory toward the ex-Queen one of friendliness or not?

Mr. WILSON. Yes; it is.

Senator MITCHELL. What is the sentiment of the people, if you know, with reference to the propriety of Congress making some provision for her?

Mr. WILSON. Oh, the Hawaiian people, the majority, think that she should be paid something for the loss she has sustained by the overthrow.

Judge HUMPHREYS. Mr. Wilson, what, in your opinion, would be the effect of such a course, if pursued, by Congress making such a settlement?

Mr. WILSON. What do you mean?

Judge HUMPHREYS. Well, would it tend to promote the public good?

Senator MITCHELL. What are they?

Mr. HAZZLETON. Tax assessor.

Senator MITCHELL. Under what government?

Mr. HAZZLETON. Under the monarchy.

Senator MITCHELL. What else?

Mr. HAZZLETON. Member of the privy council under the monarchy.

Senator MITCHELL. What else?

Mr. HAZZLETON. Secretary of the board of health.

Senator MITCHELL. Under the monarchy?

Mr. HAZZLETON. Yes.

Senator MITCHELL. Appraiser of taxes and member of the legislature under the monarchy?

Mr. HAZZLETON. Yes.

Senator MITCHELL. Anything else?

Mr. HAZZLETON. Sheriff of Maui under the monarchy and road board under the provisional government.

Senator MITCHELL. Are you acquainted with the general sentiment of the people?

Mr. HAZZLETON. I believe so.

Senator MITCHELL. What is that sentiment for the Queen?

Mr. HAZZLETON. One of general sympathy for her and of respect.

Senator MITCHELL. What is her standing in the community?

Mr. HAZZLETON. Very high.

Senator MITCHELL. As a woman?

Mr. HAZZLETON. As a woman.

Senator MITCHELL. How long have you known her personally?

Mr. HAZZLETON. Ever since I have been in the country.

Senator MITCHELL. What is the sentiment among the people of this Territory, irrespective of race, in regard to the propriety of Congress making provision for her?

Mr. HAZZLETON. That they should do so and be very liberal.

Senator MITCHELL. What would be the result?

Mr. HAZZLETON. It would have a very good effect upon the whole community, especially the native Hawaiians.

Senator MITCHELL. In what way?

Mr. HAZZLETON. Well, it would tend to harmonize things and make them respect more the American Government, I think.

Senator MITCHELL. What has been her attitude toward the Government of the United States since annexation?

Mr. HAZZLETON. As I understand it, she has taken no action at all against the authorities of the United States.

Judge HUMPHREYS. I will state, Mr. Chairman—I think I ought to state to the committee, in justice to the case I represent—that all the witnesses who testified here this morning, with the exception of two, with whom I talked personally, I have called at random, from every position, from every party—bankers, lawyers, farmers, and others.

Adjournment until 2.30 p. m.

AFTERNOON SESSION.

C. M. COOKE, recalled.

Senator MITCHELL. You have been sworn heretofore?

Mr. COOK. Yes.

Senator MITCHELL. You represent the chamber of commerce?

Mr. COOKE. I am vice-president.

Senator MITCHELL. Have you a paper prepared presenting the views of the chamber of commerce?

Mr. COOKE. I have, sir.

Senator MITCHELL. Have you it with you?

Mr. COOKE. Yes, sir; our president was away during the last week, but I shall take pleasure in reading it to you, if you wish. [Reads.]

Senator BURTON. Let me see that a moment. You say that in the opinion of this chamber of commerce it is deemed that any radical change in the land laws of this Territory would be subversive to its best interests?

Mr. COOKE. Yes, sir.

Senator BURTON. Do you believe that it is wise for the Territory to keep the public lands and lease them, manage them with a view of deriving a revenue therefrom?

Mr. COOKE. I do; because it would bring the management of these lands nearer home.

Senator BURTON. But do you think governmental ownership of lands should be maintained, or the other policy, that they should be disposed of and get into the hands of individuals and corporations?

Mr. COOKE. Here in Hawaii we have a homestead law by which they are taken up in homesteads.

Senator BURTON. You don't answer my question, as to the policy of managing lands, whether they should be controlled by the Territory or the General Government, to hold the lands for the purpose of deriving a revenue, or to, as fast as possible, get rid of them, so that the ownership should be in individuals and corporations.

Mr. COOKE. Well, I believe to a certain degree it is well for the government to have control of lands as in accordance with our present law.

Senator BURTON. I don't seem to make myself clear. Should the government keep the lands or dispose of them?

Mr. COOKE. They should dispose of them partly.

Senator BURTON. Well, how far?

Mr. COOKE. So far as they are lands that can be taken for farming, but for mountain lands it is different.

Senator BURTON. Why should not they dispose of mountain lands?

Mr. COOKE. They can only cultivate lands to a certain elevation.

Senator BURTON. Wouldn't mountain lands be worth more in the hands of individuals or corporations?

Mr. COOKE. If leased to corporations, they would when they have their water rights. For that reason I think rather than have this cut up for settlers it should be held for leasing to corporations, corporate water companies for irrigation.

Senator BURTON. Wouldn't they be worth more in the hands of the corporation to the general public than they would with the title in the government?

Mr. COOKE. You mean to sell it?

Senator BURTON. What I mean—you are a business man—shall the government of Hawaii stay in the land business or get out of the land business?

Mr. COOKE. Well, as I stated before, it is all right for the Territory of Hawaii to hold mountain land and lease that out to the public.

Senator BURTON. Then you believe that the Territory of Hawaii should stay in the land business, partially at least?

Mr. COOKE. Yes. This land is so precipitous, Mr. Senator, that it could not be used for cultivation.

Senator BURTON. Suppose you couldn't, wouldn't an individual or a corporation know as well or better how to use it as the politicians?

Mr. COOKE. Yes. At the same time the politicians and people living on home lands might want the chance to get some of that water.

Senator BURTON. Well, as a matter of fact, as long as the Territory keeps them they will be managed by politicians instead of business men?

Mr. COOKE. Certainly; to a certain extent.

Senator BURTON. It is so in all departments of government?

Mr. COOKE. Yes.

Senator BURTON. Don't you think the government of Hawaii, or on the mainland any other Territory engaged in the land business, ought not the policy to be to get rid of the lands and get them into the hands of corporations and partnerships?

Mr. COOKE. We would be very glad to have it so. At the same time we recommend that lands be left under the laws we are now under.

Senator BURTON. Now, tell us why.

Mr. COOKE. Why? Because they would then be governed by the government here—nearer than Washington.

Senator BURTON. Is there any other reason except for political influence which they bring?

Mr. COOKE. I had not thought of it in that way.

Senator BURTON. What other reason can you give?

Mr. COOKE. Well, because the applications for the sale of water rights or of land, the particulars can be got at. You can get permission easier than in correspondence in Washington.

Senator BURTON. My dear sir, you are not anything like so far away as Washington and Oregon were twenty years ago.

Mr. COOKE. We are far enough away.

Senator BURTON. If the Government had a land office at Honolulu and another one at Hilo, would you not have the Government at your door?

Mr. COOKE. Yes, sir; if they had power to decide on questions without referring them back.

Senator BURTON. The reference of any decision of the local land office to the General Land Office takes up very little time, does it not?

Mr. COOKE. Yes; if they are clothed with the power.

Senator BURTON. Well, you take the local land office at Phoenix, Ariz., or in Alaska, that reports to the General Land Office at Washington, and it doesn't require much delay.

Mr. COOKE. Doesn't it take a long time?

Senator BURTON. Not as long as you take here, from what observations I have made, to determine a land question here.

Mr. COOKE. Is that so?

Senator BURTON. Can you give any other reason than what you have given why the public lands should be left in the hands of the Territorial government?

Mr. COOKE. Well, of course it will bring an income to the Territorial government—a steady income.

Mr. BURTON. But will it bring as much to the Territorial government as it would if individuals had the property, in the way of taxation?

Mr. COOKE. We would expect that individuals would improve the lands below the water rights and have some benefit.

Senator BURTON. Wouldn't the Territorial government get more by way of taxation, because the public lands are not taxed, than it gets now in the shape of net revenue from the public lands?

Mr. COOKE. They would if they continue to tax us as heavy as they have been doing.

Senator BURTON. As a matter of fact, individuals can make a business pay better than the Government?

Mr. COOKE. Certainly, and we would cultivate or use the lands so that improvements would go on, if we could.

Senator BURTON. What is the net income from the public lands?

Mr. COOKE. I do not know.

Senator BURTON. What is the net acreage?

Mr. COOKE. I do not know.

Senator BURTON. What does it cost to administer them?

Mr. COOKE. I think a very small percentage.

Senator BURTON. Percentage of the income?

Mr. COOKE. Percentage of the income.

Senator BURTON. Doesn't it cost 10 per cent?

Mr. COOKE. I don't know.

Senator BURTON. What makes you think it is small?

Mr. COOKE. I think it is less. That is very high.

Senator BURTON. What is the aggregate?

Mr. COOKE. I would have to look at the statistics.

Senator BURTON. You are guessing at it?

Mr. COOKE. It is my opinion.

Senator BURTON. It is not an opinion we are talking about.

Mr. COOKE. No, sir.

Senator BURTON. I am talking about the aggregate land and the aggregate cost.

Mr. COOKE. We have a land department. I don't think that is run at very great expense.

Senator BURTON. Compared with the income?

Mr. COOKE. Compared with the income. I could look it up. I confess I have not looked into it.

Senator BURTON. As a general proposition, you don't think the Government ought to be in business?

Mr. COOKE. Well, what kind of business?

Senator BURTON. Any kind.

Mr. COOKE. No; I don't think they ought to. At the same time, there are two sides. Take the Honolulu waterworks, for instance.

Senator BURTON. You don't think they ought to?

Mr. COOKE. No; I think in the hands of the population it would be a great source of income.

Senator BURTON. You think the government can make more money by running the Honolulu waterworks than any individual?

Mr. COOKE. I think more, if they had that money in cash and put that money out at interest.

Senator BURTON. You think the Honolulu waterworks is managed better by politicians than by individuals?

Mr. COOKE. It is managed very well.

Senator BURTON. Answer my question.

Mr. COOKE. It is managed no better if the politicians are good politicians, or I should say Republicans.

Senator BURTON. You speak there of other industries, like sisal and coffee, all of which would be stimulated by the admission of Chinese labor to the islands?

Mr. COOKE. Yes; and also by the farming of persons who would come here to go into these smaller industries.

Senator BURTON. Do I understand you that you would restrict this immigration of the Chinese to agricultural labor?

Mr. COOKE. Yes.

JOHN A. CUMMINS, recalled.

Senator MITCHELL. You wish this paper attached to the deposition you gave this morning?

Mr. CUMMINS. Yes.

Mr. W. O. SMITH. Mr. Case, the secretary of the bar association, wishes to present a paper in regard to the desirability of having a third judge for the first circuit court.

DANIEL H. CASE, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. CASE. Daniel H. Case; age, 38; Honolulu; attorney at law.

Senator MITCHELL. How long have you resided here?

Mr. CASE. Since September, 1896.

Senator MITCHELL. Have you been practicing law since then?

Mr. CASE. I have practiced law a portion of the time. Most of the time I have been one of the official court reporters of the island courts.

Senator MITCHELL. Are you familiar with the amount of business done in this circuit?

Mr. CASE. I am.

Senator MITCHELL. Are you prepared to state to the committee whether more than two judges are necessary to transact the business here?

Mr. CASE. I can give my individual opinion.

Senator MITCHELL. What is it?

Mr. CASE. I believe that three judges are necessary.

Senator MITCHELL. Why?

Mr. CASE. Because of the volume of business done here.

Senator MITCHELL. What is the volume?

Mr. CASE. I simply know the condition of the calendar of our first circuit. We are away behind. Cases filed to-day in the first circuit can't be heard for months; possibly not for years.

Senator MITCHELL. Well, you now have three judges in this district?

Mr. CASE. We have three judges.

Senator MITCHELL. Under the law is it not true that only one can sit at a time, as it stands to-day?

Mr. CASE. It is not a law. It was held by the court.

Senator MITCHELL. What court?

Mr. CASE. The first circuit court.

Senator MITCHELL. Has the supreme court held that?

Mr. CASE. The supreme court never held that.

Senator MITCHELL. The first circuit judge has held that under existing law only one of the three can sit at the same time?

Mr. CASE. Yes, sir.

Senator MITCHELL. Suppose the law was changed so that two judges could sit at the same time, would it then be necessary to have more than two judges?

Mr. CASE. I think it would.

Senator MITCHELL. Why?

Mr. CASE. I don't believe that sitting all of the time, as they probably would sit the larger portion of the time, they could dispose of all of the business for the first circuit.

Senator BURTON. What is the population of the first circuit?

Mr. CASE. I can not tell you.

Senator BURTON. What is the population of this island?

Mr. CASE. I can not tell you.

Senator BURTON. What is the population of this city?

Mr. CASE. In the neighborhood of 40,000.

Senator BURTON. How many people live outside?

Mr. CASE. The population of the islands is 150,000.

Senator BURTON. I am not asking about the islands. The judges here don't have anything to do with them.

Mr. CASE. Except as they may have—

Senator BURTON. Are there 10,000 people on this island outside of those that live in Honolulu?

Mr. CASE. I really can't say. I don't know what the population is outside of Honolulu on this island.

Senator BURTON. Is there any population of 50,000 people that two judges can't try all the cases brought before them, on the mainland or anywhere else?

Mr. CASE. I don't know how it is on the mainland.

Senator BURTON. You know how it is in Topeka, Kans.?

Mr. CASE. I know that in Shawnee County we had two judges.

Senator BURTON. Two trial judges?

Mr. CASE. Circuit courts and district court. They have concurrent jurisdiction.

Senator BURTON. There is not anything in the way of a circuit court there now?

Mr. CASE. It was abolished two or three years ago.

Senator BURTON. Only lasted about two years?

Mr. CASE. Some three years.

Senator BURTON. As a matter of fact one judge does all the business for that county?

Mr. CASE. He attempts to do all the business for that. I hear he is behind.

Senator BURTON. When did you hear that?

Mr. CASE. I have heard him speak of it time and time again.

Senator BURTON. Recently?

Mr. CASE. No; I left there in 1896.

Senator BURTON. If one judge could not do all the work, with the powerful influences that center around the capital how long would it be before they got another?

Mr. CASE. I don't know the politics of legislation.

Senator BURTON. As a matter of fact, the people there in Shawnee County think one court can do all the business?

Mr. CASE. Some do and some do not.

Senator BURTON. That is the dominant feeling, or else they would have another judge.

Mr. CASE. I have heard a great deal of complaint in Shawnee County about the condition of the calendar and the want of ability on the part of the court, from lack of time, to dispose of the business before him.

Senator BURTON. That complaint could not be very loud, or else it would make itself manifest in the legislation. We have three members in the lower house and a senator, and they have all the powerful influences that center around a capital.

Mr. CASE. Yes; Shawnee County is generally heard from.

Senator BURTON. I think so. She has a population of over 60,000. hasn't she?

Mr. CASE. Yes.

Senator BURTON. You go down there into Wyandotte County, the population is 70,000?

Mr. CASE. I am not sure.

Senator BURTON. Doesn't one judge do all the business—try all the cases?

Mr. CASE. I think there is one judge there.

Senator BURTON. In Leavenworth County the population is 50,000, and it is the same way?

Mr. CASE. Yes.

Senator BURTON. What I am trying to get at is how it comes you have three times the legal business here per capita that we have in Kansas?

Mr. CASE. As to why more people bring lawsuits here I can not say. I merely know we have the litigation.

Senator BURTON. I notice one thing; you have the brightest bar I have ever run across. Seriously, but I can't see why two judges could not do all the business. Now, as a matter of fact, this other judge was made under very peculiar circumstances by the last legislature.

Mr. CASE. What do you mean, the last legislature?

Senator BURTON. The bill was voted down, and it was finally arranged that a certain man should be appointed.

Mr. CASE. I was not on the inside; I can not say.

Senator BURTON. From common rumor, is it not generally understood how that bill came to be passed?

Mr. CASE. That bill was passed at the request of the bar, who wanted it so as to be able to have their cases heard. Clients were dissatisfied and complaining to their lawyers. Of course the lawyers could not do anything.

Senator MITCHELL. Did the two judges claim they were overworked?

Mr. CASE. I don't know of any claim on the part of either judge.

Senator BURTON. The bill was voted down in the legislature a time or two?

Mr. CASE. I can not say.

Senator BURTON. Is it not a matter of common notoriety that a certain man was promised the place and then the bill went through?

Mr. CASE. I can not say as to that.

Senator BURTON. Did you ever hear of it before?

Mr. CASE. No, sir; I never heard of it. It is news to me.

Senator BURTON. What do you think of the constitutionality of the legislature in creating a third judge here?

Mr. CASE. Well, sir, in the presence of so many eminent lawyers I hardly like to discuss the constitutionality of a question.

Senator BURTON. Well, you are a lawyer?

Mr. CASE. I am.

Senator BURTON. It is not a very complicated question, is it?

Mr. CASE. I think, perhaps, they may have exceeded their authority.

Senator BURTON. If they did not exceed their authority in that, there is nothing to prevent them from creating a hundred judges and get all you lawyers here into the judgeship?

Mr. CASE. No.

Senator BURTON. How many members of the bar are there?

Mr. CASE. Seventy members.

Senator BURTON. How many were present when this was acted on?

Mr. CASE. This was action taken by the executive committee.

Senator BURTON. How many?

Mr. CASE. Nine.

Senator BURTON. All present?

Mr. CASE. No, sir. Six present and eight concurred.

Senator BURTON. Eight of the executive committee concurred in this?

Mr. CASE. If you will permit me, I might say that the matter of having the association as a body act on the matter was brought up, and our constitution provides that a special meeting can not be held except upon giving ten days' notice. We were of the opinion that the commission probably would adjourn and be on its way home by that time.

Senator BURTON. Don't you think that delicate ethical sentiment inspiring your profession would have required them to notify the President that in its judgment the creation of this judge was unconstitutional, instead of petitioning them to appoint a judge?

Mr. CASE. No.

Senator BURTON. Don't you think high ethics on the part of the bar would oppose the appointment of a judge which in their judgment is unconstitutional?

Mr. CASE. I don't know that the bar as a body consider it unconstitutional. We have had a great many questions concerning which there was a variety of opinions as to the constitutionality of acts.

Senator BURTON. Don't wander off onto that. You don't believe any member of the bar would hold that this creation of the third judge was constitutional?

Mr. CASE. That is hard to say.

W. O. SMITH, recalled.

Mr. SMITH. As president of the bar association I would like to make some statements in regard to the matter before you. Under the Hawaiian statute the supreme court and the circuit court provide for judges, the number of the judges to be decided by the legislature, and the organic act provides in section 81 that the judicial power of the Territory is vested in one supreme and circuit courts and in such inferior courts as the legislature may from time to time establish, and until the legislature shall otherwise provide the laws of Hawaii heretofore in force concerning courts, their jurisdiction and procedure, shall continue in force, except as herein otherwise provided. The Hawaiian law does not limit the number of judges in the circuit court to be appointed. During the last three years the circuit court of the first circuit has been overcrowded with actions; large numbers of cases went over for more

than a year and could not be heard because the judges did not have time to hear them. It is a matter of common knowledge among members of the bar and the judges and was frequently discussed, and it finally led to the action which has just been recited, to relieve the congested condition of the calendar. That the matter is unconstitutional I never heard raised until raised before you. It is unanimously the opinion of the members of the bar that it is absolutely constitutional and in accordance with the laws of the Territory and in accordance with the organic act. In the Territorial legislature of the Territory of Hawaii is the power to appoint another judge, if in the nature of things the changed conditions make another judge necessary to handle the work that is before them. Why should not the legislature have the power to appoint another judge if the conditions make another judge necessary?

Senator MITCHELL. What do you think of the construction that only one judge can hold court?

Mr. SMITH. That is an enforced construction, as I understand it. It only applies to the matter of holding terms at which they have juries for an actual fact. The circuit judges have their chamber jurisdiction, and they generally have term and chamber work going together. When there are two judges, one holds trials in chambers, probate work, equity work, and chamber practice, while the other judge is carrying on the term work with juries. Heretofore, until recently, the ruling of the circuit court has changed it. While a term was properly in progress more than one judge, if there were sufficient jurors, would hold jury trials, sitting at the same time in different court rooms with different juries, and thus facilitated the work very much. Whether the ruling of the circuit court is correct in that regard I do not know. There is a difference of opinion in regard to it. I believe a great effort will be made to have the law amended so that it will permit two judges sitting at the same time to facilitate public work. The whole occasion for having this third judge was the extreme necessity of having the work facilitated in the first circuit. The accumulation of business there was great—several hundred cases unable to be heard.

Senator MITCHELL. Mr. Smith, what do you think of the practice of filling vacancies in the supreme court?

Mr. SMITH. The law was somewhat misunderstood as presented to you. There are three judges of the supreme court. It happens commonly from relationship, interest, or some other cause that one is disqualified. The law provides that every litigant is entitled to a full court of three judges. In case of the disqualification of one of the supreme court, a circuit court judge may be called in to sit with the supreme court judges.

Senator MITCHELL. How about disqualification for absence?

Mr. SMITH. Disqualification for absence or illness or being away from the country.

Senator MITCHELL. If a judge remains away for sickness or any other cause he could remain away voluntarily if he wanted to?

Mr. SMITH. It happens if he is interested from business relations in a litigation he is disqualified from interest. For relationship to the third degree of consanguinity under our statute he is disqualified. A circuit judge may be called in, not necessarily from the same circuit. Frequently the circuit judge from the other islands is called in—Judge Little and Judge Eddings. It often happens that the judges of the

circuit court are also disqualified by having heard cases before. The provision is a proper one that a judge having tried a case should not sit on appeal in the same case. So in order to prevent delay a provision is in the statute, and has been there a good while, that, failing to obtain a circuit judge, any member of the bar could be called in.

Senator MITCHELL. Right there, suppose a vacancy on the supreme bench occurred. They fail to get a circuit judge, but call in a member of the bar. Then if the judges find they are disqualified they can get two members of the bar.

Mr. SMITH. Yes; but there is some ability in the members of the bar. All knowledge of law is not confined to the bench, and the provision in the statute is to prevent the failure of justice.

Senator MITCHELL. Suppose I am not a district judge, but a member of the bar. I am called in. I am not sworn.

Mr. SMITH. You can not be a circuit judge without being sworn.

Senator MITCHELL. But suppose I am not a circuit judge. The circuit judges are disqualified. It is necessary to go to the bar. I am a member of the bar. I am selected to fill the vacancy. Am I sworn?

Mr. SMITH. The practice is not to take an additional oath. Every member upon being admitted has to take an oath.

Senator MITCHELL. I understand that. If I take the vacancy in the supreme court am I sworn as a judge?

Mr. SMITH. No, sir; that has not been the practice.

Senator MITCHELL. Not the practice?

Mr. SMITH. I think, under our circumstances or the same circumstances anywhere else, it is a good practice.

Senator MITCHELL. It don't strike me as good. I confess I want to get at it.

Mr. SMITH. It is better than something worse; better than having justice delayed, not having cases disposed of. Rather than have a failure of justice when the circuit judges are not available, it is better to call in members of the bar.

Senator BURTON. At the time that the enabling act was passed, the judiciary here was composed of a supreme and circuit courts?

Mr. SMITH. Supreme and circuit courts.

Senator BURTON. And for this district two judges of the circuit court?

Mr. SMITH. At the time it was passed there were two judges.

Senator BURTON. And the law provides by the enabling act to continue that condition of affairs?

Mr. SMITH. It continued the Hawaiian statute in force, which does not limit the number of judges to be appointed in any circuit.

Senator BURTON. But do you approve of the enabling act giving power to the legislature to extend that Hawaiian statute so as to enable the legislature to create an office for the President of the United States to appoint?

Mr. SMITH. There is no extending of the statute at all. It remains exactly the same.

Senator BURTON. Do you approve—

Mr. SMITH. The Territorial legislature is clothed with the power of creating this office.

Senator BURTON. Do you approve of the legislature having the power to create that office for the President of the United States to fill? Do you construe the act of Congress into that?

Mr. SMITH. I say, under these circumstances, that is exactly what Congress did do. They had the Hawaiian statute before them, giving the power to the legislature of the Territory to name the number of judges of the circuit court. Congress had that statute before them at the time, and by express terms they continued that in force.

Senator BURTON. But it did not give to the Territorial legislature the power to go on and create additional judges?

Mr. SMITH. It simply continued the statute in force which gave them that power.

Senator BURTON. It certainly enlarged the power in creating an office for the President to fill.

Mr. SMITH. I do not agree. The power was not enlarged.

Senator BURTON. Then there is nothing to hinder the Territorial legislature from creating a hundred offices or a thousand offices that would become mandatory upon the President of the United States to fill and the Senate to confirm?

Mr. SMITH. I have stated exactly what Congress did. Not one word was extended or altered.

Senator BURTON. That would be the effect of it?

Mr. SMITH. That is just what Congress did.

Senator BURTON. In other words, it clothed the Territorial legislature with the power to create any number of judicial offices in any of the districts down here and made it mandatory. It would be made mandatory upon the part of the President to fill these offices, on the part of the Senate to confirm them.

Mr. SMITH. In regard to the circuit judges, that is just what they did.

Senator BURTON. You don't think it is constitutional?

Mr. SMITH. It has been discussed by able lawyers, and they take that view.

Senator BURTON. I don't think anybody in Washington took that view.

Mr. SMITH. I was there, and I know that they did.

Senator BURTON. You may have been there.

Mr. SMITH. I was there, and I can produce the record. You can ask Congressman Knox. I was present and heard it discussed.

Senator BURTON. Oh, I think not. I think you must be mistaken.

Mr. SMITH. I am not mistaken.

Senator BURTON. You think, then, that two judges could not do the work of this constituency here?

Mr. SMITH. For the last two or three years the judges have repeatedly stated that they could not, and they have worked industriously—early and often late.

Senator BURTON. No judge has made that statement here.

Mr. SMITH. You have only had one judge before you.

Senator BURTON. We have had two judges, and they both said two could do the work.

Mr. SMITH. I don't know how to reconcile that. The calendar is congested with cases of more than a year's standing.

Senator BURTON. Do you think Judge Gear and Judge Humphreys would come before this commission and willfully misstate?

Mr. SMITH. I do not think they would misstate.

Senator BURTON. Don't you think they know the facts?

Mr. SMITH. Facts speak for themselves.

Senator BURTON. Is there any other judge here?

Mr. SMITH. Judge Robinson has only gone on the bench recently. But it is a matter of common complaint among the members of the bar and their clients, as I think any lawyer of practice here can testify, and the record will show that for two years a great deal of back work could not receive attention.

Judge HUMPHREYS. Probably 75 cases continued.

Mr. SMITH. There may be a few cases where clients and attorneys are not ready, but there is an accumulation of cases not receiving attention, as every member of this bar knows.

Judge HUMPHREYS. Two judges could do all the work and work half the time.

Mr. SMITH. Why haven't they done it, then?

J. W. GIRVIN, sworn.

Mr. GIRVIN. Age, 55; occupation, notary and conveyancer; reside in Honolulu.

Senator MITCHELL. How long have you resided here?

Mr. GIRVIN. Thirty-eight years.

Senator MITCHELL. Where are you a native of?

Mr. GIRVIN. I am a native of Canada.

Senator MITCHELL. Are you an American citizen?

Mr. GIRVIN. I am an American citizen.

Senator MITCHELL. Since when?

Mr. GIRVIN. Since the passage of the organic act, which made all citizens of Hawaii citizens of the United States.

Senator MITCHELL. What did you say your business was?

Mr. GIRVIN. Notary and conveyancer.

Senator MITCHELL. Whom do you represent here?

Mr. GIRVIN. I was asked by some of these Chinese gentlemen who are engaged in the rice culture, with the statistics they furnished me, to draw up an argument in a certain matter.

Senator MITCHELL. Have you prepared a paper?

Mr. GIRVIN. I have.

Senator MITCHELL. Have you it with you?

Mr. GIRVIN. I have.

Senator MITCHELL. You may read it.

Mr. GIRVIN. (Reads.)

Senator MITCHELL. Are the Chinese here?

Mr. GIRVIN. Yes.

Senator BURTON. What is the present tariff?

Mr. GIRVIN. One and one-fourth cents on brown rice.

Senator BURTON. What do you recommend?

Mr. GIRVIN. We recommend 2½ cents.

Senator MITCHELL. Are you familiar with the rice production in these islands?

Mr. GIRVIN. I am not. This gentleman will tell you about it.

AHLO, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. AHLO. Residence, Honolulu; age, 61; rice planter.

Senator MITCHELL. How long have you lived in these islands?

Mr. AHLO. About forty.

Senator MITCHELL. Forty years?

Mr. AHLO. Not quite forty.

Senator MITCHELL. Have you been engaged in rice planting in that time?

Mr. AHLO. Rice planting and store business.

Senator MITCHELL. What class of labor do you use?

Mr. AHLO. Lower class of labor—Chinese.

Senator MITCHELL. Do you lease your lands?

Mr. AHLO. Lease lands; yes.

Senator MITCHELL. From whom?

Mr. AHLO. Oh, different parties.

Senator MITCHELL. From the government?

Mr. AHLO. Some government; some.

Senator MITCHELL. What do you pay a month for lands for rice?

Mr. AHLO. I pay every six months.

Senator MITCHELL. How much a month?

Mr. AHLO. This way: I don't pay by the month; I pay every six months.

Senator MITCHELL. How much for 1 acre a year?

Mr. AHLO. You say an acre a year. Before it was cheaper—\$2.50 to \$5 an acre.

Senator MITCHELL. A year?

Mr. AHLO. A year. Now it is more—\$25 to \$50 an acre.

Senator MITCHELL. What does it cost to produce a pound of rice in this country?

Mr. AHLO. When we have cheap labor?

Senator MITCHELL. As it is now.

Mr. AHLO. Now it costs about 4 cents.

Senator MITCHELL. Four cents a pound?

Mr. AHLO. This time; high laborers, you know.

Senator MITCHELL. What do you do with your rice? Where do you sell it?

Mr. AHLO. Sell it in town.

Senator MITCHELL. What do you get a pound for it?

Mr. AHLO. Now it sells for about 4½ cents a pound.

Senator MITCHELL. Can't you get all the Chinese you want?

Mr. AHLO. No; very hard. Labor is very high now.

Senator MITCHELL. What do you pay Chinese a month now?

Mr. AHLO. Oh, I pay 23. I furnish board and house. Some cost me \$1 a day. You see it is this way: This time they pay labor high, but they work not a cent better than cheap laborers. Before I have two laborers; this time three. My luna can't do anything. I suppose my luna say it is too hard. He don't care. This time all the rice planters lose interest. Nothing in profit now.

WONG LEONG, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. LEONG. Age, 48; residence, Honolulu; occupation, rice business.

Senator MITCHELL. How long have you lived in the islands?

Mr. LEONG. Thirty-two years.

Senator MITCHELL. Are you familiar with rice growing in these islands?

Mr. LEONG. Yes.

Senator MITCHELL. What does it cost to raise a pound of rice in this country?

Mr. LEONG. Labor is high; it costs 3 to 4 cents. Some places it is 4 cents now.

Senator MITCHELL. It depends on the place?

Mr. LEONG. Yes.

Senator MITCHELL. Have you any trouble?

Mr. LEONG. Very hard trouble to get labor.

Senator MITCHELL. You lease your ground, do you?

Mr. LEONG. Yes; I lease.

Senator MITCHELL. What do you pay an acre?

Mr. LEONG. I pay 25; some 30.

Senator MITCHELL. An acre?

Mr. LEONG. Yes.

Senator MITCHELL. What do you recommend in your industry? What do you want done?

Mr. LEONG. Some labor; Chinese labor come here.

Senator MITCHELL. Any duty on foreign rice?

Mr. LEONG. Yes.

Senator MITCHELL. How much?

Mr. LEONG. Two and one-half.

Senator MITCHELL. Two and one-half cents?

Mr. LEONG. Yes.

Senator BURTON. You believe in a tariff? You are a Republican, are you?

Mr. LEONG. Yes.

Senator MITCHELL. Are you an American citizen?

Mr. LEONG. No; I was not born here, but I have a right to vote

Senator MITCHELL. You vote, then, do you?

Mr. LEONG. Yes; I got a son in the United States now.

H. A. JUEN, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. JUEN. Age, 37; residence, Honolulu; occupation, liquor dealer.

Senator MITCHELL. How long have you lived in the islands?

Mr. JUEN. Off and on about fifteen years.

Senator MITCHELL. Are you an American citizen?

Mr. JUEN. Yes.

Senator MITCHELL. You have handed me this communication, addressed to me, dated September 22, 1902, and signed by yourself. Are the statements contained therein true?

Mr. JUEN. As far as I know.

Senator MITCHELL. Do you wish to supplement this paper by any testimony?

Mr. JUEN. I have very little testimony to give any further than on the memorial as it speaks for itself.

Senator MITCHELL. Do you desire to have it made a part of the record?

Mr. JUEN. Yes.

Senator MITCHELL. Do you desire to state anything?

Mr. JUEN. Nothing further than that. These claimants have requested me to arrange this memorial and present it to your honorable body in their behalf.

Senator MITCHELL. You say in this memorial in the year 1895—

Mr. JUEN. Yes; a number of American citizens were illegally

arrested and thrown into prison by the then Hawaiian government officials.

Senator MITCHELL. Hawaiian government?

Mr. JUEN. Hawaiian republic.

Senator MITCHELL. On what ground were you thrown in?

Mr. JUEN. We never really knew.

Senator BURTON. Was it connected with the revolution?

Mr. JUEN. There was an insurrection at the time.

Senator BURTON. That is not a matter of our jurisdiction.

Mr. JUEN. We wish the matter taken up, if possible.

Senator BURTON. And brought to the attention of Congress? Have you any lawyer here to represent you?

Mr. JUEN. We did have Paul Neumann, since deceased, and since then nobody has taken his place.

Senator BURTON. Are you a Hawaiian?

Mr. JUEN. No, sir; I was born in Stamford, Conn.

Senator BURTON. If you have any attorney, let him appear. If not, consult some competent lawyer. We don't want to go into the merits of the right or wrong of a revolution. If individuals have claims arising out of that, there is an avenue of redress.

JOHN E. BUSH, recalled.

Mr. BUSH. You have asked for opinions in regard to a certain question discussed—the question of labor. I would like to give my testimony to corroborate what has gone before.

As representing the Hawaiian people especially, I deem it my duty to corroborate the statement that has been made that it is necessary for the benefit and welfare of the whole country that Americans should be compelled to make some exception in behalf of letting Chinese labor into the country. In that respect I think that under the circumstances here—the peculiar situation here—that it would be a very gratifying thing to have the commission suggest that the United States of America make some allowances or exceptions to help us to our labor in this country, but to bar them from being thrown into competition with white labor. When they have finished that work they should be sent back to their country.

Adjournment until 10 o'clock, September 24, 1902.

WEDNESDAY MORNING, *September 24, 1902.*

GEORGE A. DAVIS, sworn.

Mr. DAVIS. I reside in Honolulu; 44 years of age; occupation, counselor at law.

Senator MITCHELL. How long have you lived here in Honolulu?

Mr. DAVIS. Between seven and eight years.

Senator MITCHELL. Where were you born?

Mr. DAVIS. Born in the city of Boston, State of Massachusetts.

Senator MITCHELL. An American citizen?

Mr. DAVIS. I am.

Senator MITCHELL. You may make any statement, Judge, that you desire to bring before the committee.

Mr. DAVIS. Last June I was commissioned and went to Maui, the

third circuit, as deputy attorney-general. That is the circuit over which John W. Kalua presides. When I got there I found that he could not administer the oath to the grand jury. I had to make up the oath for him and administer it. Then he came to the charge to the grand jury. He had no charge prepared, and could not prepare one. He wanted me to prepare his charge for the grand jury, which I did.

Senator MITCHELL. Did he request you to do it?

Mr. DAVIS. Yes. Then, upon the trials that took place before him, the man was utterly incompetent. I had to make up two or three charges to the juries. I found the man was utterly incompetent to perform the duties of the office, and besides that I was satisfied from my investigations while there that he was corrupt. I wish to make this statement, because I consider that the continuance of a man of that kind in the judicial office, where life and property is involved, is a serious menace to the Territory and to good government, and is a reflection upon the appointing power. It has been well known to the government here that this man was incompetent and has been incompetent.

Senator MITCHELL. When was he appointed judge?

Mr. DAVIS. He was appointed before annexation, and he was continued in office afterwards. He was appointed by the authorities of the republic of Hawaii. That is a fact, that man could not administer the oath to the grand jury. I had to make up the oath.

Senator MITCHELL. About his appointment—who appointed him first?

Mr. DAVIS. Appointed by President Dole and his cabinet.

Senator MITCHELL. Later, by whom?

Mr. DAVIS. And later was continued in office by the recommendation of somebody. I could not find out who it was that recommended him.

Senator MITCHELL. Appointed by President McKinley?

Mr. DAVIS. Appointed by President McKinley.

Senator MITCHELL. Do you know when his commission expires?

Mr. DAVIS. I don't know. I think two years from now, Senator Mitchell.

Senator MITCHELL. What about his personal habits?

Mr. DAVIS. I have nothing to say about a man's habits. I don't care what his habits are. He is incompetent and corrupt.

Senator MITCHELL. If he is incompetent and corrupt, either is sufficient, but if he is also a man of bad habits that would have its bearing.

Mr. DAVIS. I wish to state, if you will pardon me, I don't want to go into a man's habits.

Senator MITCHELL. All right, go ahead.

Mr. DAVIS. I wish to be brief. I wish to say this, that when the appointments to the supreme bench were made here there were two judges appointed, and who now occupy positions on the supreme bench of this Territory, who I can find no record of their having tried a case in any court of law before their appointments, and I am satisfied from my knowledge of affairs that before their appointment they never tried a case in any court nor had any experience.

Senator MITCHELL. What are their names?

Mr. DAVIS. Chief Justice Frear is one and Associate Justice Perry

is the other. They were appointed. One of them was appointed by the authorities of the republic, not to their present positions—Perry was appointed as district magistrate first. He came out of General Hartwell's office, where all the judges came from prior to annexation. W. O. Smith, the attorney-general—every judge came out of that office until I was put on the bench temporarily. W. O. Smith was away when I was appointed, or I don't suppose I would have been appointed. Every judge was taken out of Hartwell's office and put on the bench. These two were both from there and have never tried a case in their life. I don't complain so much about Chief Justice Frear, because he is an academician; he is a man of considerable ability.

Senator MITCHELL. Have you anything to say against his administration of the office?

Mr. DAVIS. I think a position of that kind, Senator Mitchell, must necessarily be better filled by a man who has had some experience at the bar. No man can sit in judgment in the highest court of appeal in the land and review the decisions of inferior courts where life and property are concerned. It is impossible that he should satisfactorily administer the affairs of the office without some experience.

Senator MITCHELL. How long has Chief Justice Frear been on the bench?

Mr. DAVIS. He has been there four or five years, I think. Associate Justice Perry never tried a case or never was engaged in any litigation of any kind—I can not find that he ever was—certainly never did since I have been in the country, and he was made district magistrate a short time after I got here.

Senator MITCHELL. How long have you been on the bench, and when?

Mr. DAVIS. I think only about six weeks.

Senator MITCHELL. When?

Mr. DAVIS. May and June.

Senator MITCHELL. By whose appointment?

Mr. DAVIS. President Dole.

Senator MITCHELL. Were you appointed to fill a vacancy?

Mr. DAVIS. No, no; just to fill a temporary position of another judge.

Senator MITCHELL. And your term expired with the recovery of the judge?

Mr. DAVIS. Yes; I went out of office.

Senator MITCHELL. Anything else you wish to say?

Mr. DAVIS. I wish to say this, that I would like to see the organic act amended.

Senator MITCHELL. In what respect?

Mr. DAVIS. That is, in limiting the number of judges.

Senator MITCHELL. To what number?

Mr. DAVIS. Two, I think, would be sufficient at the present time.

Senator MITCHELL. You mean for this district?

Mr. DAVIS. Yes, this circuit. I have changed my opinion. I have been in favor of three judges here on account of the docket. I have given the matter calm consideration, and I think that the amendment of the act is what is required of the Territorial act—that is to say, the act shows that there shall be a certain number of judges, either of whom may hold court. The contention is correct, the contention that only one court can sit, so the fault lies practically in that. An act

should be passed to divide the court into two divisions, civil and criminal, so that both judges could sit, and then they could transact the business. I think the salaries of the circuit judges should be \$4,000, at least.

Senator MITCHELL. They are now \$3,000?

Mr. DAVIS. Yes. It is an important office. They have jurisdiction from one dollar up to a million and from petty crimes up to murder. It is a very important office, and the salary should be made \$4,000.

Senator MITCHELL. Judge, what offenses, if any, can the penalty of life imprisonment be imposed on?

Mr. DAVIS. Murder, manslaughter, burglary. I don't know that there are any others.

Senator BURTON. Embezzlement?

Mr. DAVIS. Embezzlement, I think, too. It is a statutory misdemeanor. It struck me as a strange thing, as Senator Burton has suggested, there are some of the strangest laws here. For instance, they hold here, Judge Perry did—it was afterwards reversed—that a man could be convicted upon the uncorroborated testimony of his accomplice in crime for such offenses as rape and sodomy. That is one of the decisions sent down here. That decision you will find in the Hawaiian Reports.

Now, I have not anything further to say except when I began to practice law here I had considerable trouble; I was fined three or four times. Once I spent ten days in jail. This was under the Dole administration. I wrote a letter. I had a good strong friend in the United States, the Hon. Cushman K. Davis. He complained to the Department of Justice, and that is the letter that the Attorney-General wrote him at the time. He promised investigation. I did not pursue the matter. I thought it was hardly worth while. It was a long way to Washington, and I thought I had better bear those ills that I had suffered than to be making claims; that I had better go on with the practice of law, which I did and practiced my profession successfully in this Territory, and have been engaged in most of the important litigation which has come up.

I want to ask this from the committee: I would like to see that the appointments to the bench would be carefully scrutinized by the Senate before they are confirmed, because a judge ought to be entirely free from political bias or prejudice as far as it is possible for a human being to be, especially here, with the interests of a confiding people like the Hawaiians, who are generous and whose property and lands are constantly in litigation, and the judge ought to be close to his oath.

Senator MITCHELL. No question about that. That is not a matter of argument. We all agree to that. Any other fact you wish to present?

Mr. DAVIS. Well—

Senator MITCHELL. Are you familiar with the manner of filling vacancies here on the supreme bench?

Mr. DAVIS. Yes. Heretofore, when these vacancies upon the supreme bench were filled, Dole influence, the entire influence of the government, was to continue the present justices in office. I think these appointments were due to W. O. Smith, A. S. Hartwell, and Sanford B. Dole. The continuance of Justice Perry and Justice Frear were due to their efforts. In fact, I had fought them through this same Senator. I complained successfully. They wanted—Dole was on the commission

and the chief justice—they wanted, all hands of them, wanted a life tenure of office for the supreme court; they did not want grand juries; they did not want unanimous verdicts. All these provisions, that I think were in the organic act, changed the ideas that this commission had, of which Chief Justice Frear and Governor Dole were members; these American provisions, humane provisions, that were put in the organic act incorporating the underlying principles of American jurisprudence were put in against their protests.

Senator MITCHELL. There is nothing in the organic act concerning the manner now in force in the Territory of filling vacancies on the supreme bench?

Mr. DAVIS. The appointments are made by the President and the appointments are confirmed by the Senate. I think that is the provision all right, and I hope that the day will never come when the power of appointing any judge of any court of record shall be placed in the hands of the governor of this Territory, I don't care who he is.

Senator MITCHELL. I wanted to attract your attention more particularly to the filling of temporary vacancies.

Mr. DAVIS. That is a law which should be repealed; that is to say, the practice of calling in members of the bar to sit on the supreme bench.

Senator MITCHELL. That is what I refer to.

Mr. DAVIS. For instance, suppose a man has been tried and sentenced for murder. His case is taken to the appellate court; one of the justices is absent; they call in a man without a commission, without an oath, and sometimes without a conscience, to pass upon the question of the man's guilt or innocence, and the same way with questions involving hundreds of thousands of dollars. They call in a man who is absolutely without any restrictions upon him, who is not a judicial officer. It is an un-American institution.

Senator MITCHELL. You would recommend a change?

Mr. DAVIS. I do. It is wrong to allow any man to be called in to pass on questions of human life and property unless he is sworn in.

Senator MITCHELL. You are prone to get into argument.

Mr. DAVIS. I am sorry.

Senator MITCHELL. Keep down to the facts.

Mr. DAVIS. All right.

Senator MITCHELL. Now, are there any other facts you wish to present, or recommendations?

Mr. DAVIS. There is one thing I would like to say, that as this is a republic, that the continuance in office of any administration for a period of ten years is too long, and that it would be in the interests of this Territory if there was a change in the administration. These people have been in power since 1892, and as long as they are continued in power there will be some unrest and dissatisfaction in this Territory, the same as there has been for a long time.

Senator MITCHELL. Anything else?

Mr. DAVIS. I thank you, Senator; that is all I have to say.

Mr. W. O. SMITH. May I be allowed to ask Mr. Davis a few questions?

Senator MITCHELL. All right.

Mr. SMITH. You were deputy attorney-general at that term of the circuit court you have mentioned?

Mr. DAVIS. Do you want me to answer the questions?

Senator MITCHELL. Oh, yes.

Mr. DAVIS. I was.

Mr. SMITH. You charged that at that term Judge Kalua was corrupt.

Mr. DAVIS. I made the charge that I was informed. You heard my evidence that I was informed that Kalua was corrupt. I said he was incompetent.

Mr. SMITH. I thought you said he was corrupt.

Mr. DAVIS. No, sir; I said I was informed and I believed he was corrupt, but I am absolutely certain that he is incompetent.

Mr. SMITH. I misunderstood the evidence.

Senator MITCHELL. My recollection is that he said he was satisfied of the fact that he was corrupt.

Mr. DAVIS. That is right.

Mr. SMITH. In regard to the matter of the three judges.

Mr. DAVIS. Do you want to follow up the matter of the incompetency?

Mr. SMITH. In regard to the matter of the need of three judges, were you not a member of the bar association when they passed the resolution for three judges?

Mr. DAVIS. Yes, I am a member of the association. I nominated you for chairman of it.

Mr. SMITH. Were you not a member, and did you not favor the proposition last year?

Mr. DAVIS. Yes; I favored it.

Mr. SMITH. Are you now a member of it?

Mr. DAVIS. I'm a member.

Mr. SMITH. Were you not present last week and still favored the recommendations for three judges?

Mr. DAVIS. I may change my opinion.

Mr. SMITH. Isn't your change of opinion based very largely on the fact of the recent appointment of Judge De Bolt, who is very distasteful to you?

Mr. DAVIS. That has nothing to do with it. The reason that I have changed my opinion is because I believe that the fault lies in the legislature in only allowing us one court to be held at a time. That can be remedied here. The reason I changed my opinion is that I believe that the fault lies in imperfect legislation in only allowing one court to sit at a time, and the law can be so amended by the local Territorial legislature so as to do away with the necessity of the appointment of more than two judges.

Mr. SMITH. Wasn't this meeting of the executive committee of the bar association, of which you are a member, held last week after the subject had been raised before the commission in which statements had been made that it was not necessary to have three judges?

Mr. DAVIS. Yes, sir.

Mr. SMITH. Wasn't it discussed fully? Did you not then, last week, indorse the action?

Mr. DAVIS. Yes; I thought perhaps it would be wise to have three judges, but upon reflection I thought that the legislation could be so amended as to avoid the necessity for more than two. I changed my mind like some of my friends. I have changed it within the last few days.

Mr. SMITH. Wasn't the appointment of Judge De Bolt the reason?

Mr. DAVIS. I have answered that question. I thought the legislation could be amended.

Mr. SMITH. I have asked if that was not due to the appointment of Judge De Bolt?

Mr. DAVIS. I told you my reasons. It can't be because of Judge De Bolt's appointment, even though I am not in favor of the appointment.

Senator MITCHELL. I understand that if your law was changed you think the work could be done by two judges?

Mr. DAVIS. I believe it could and be an economy to the government.

W. O. SMITH, recalled.

Mr. SMITH. I wish to speak for Judge Kalua, who has not been heard at all.

Senator MITCHELL. I desire to state—the chair will state, that after the testimony had been taken on board the boat on our way to Hawaii, and testimony had been adduced reflecting upon this judge, I immediately, as soon as we arrived at Hilo, addressed a letter to the judge, advising him of the fact and stating to him that we would be in session all this week, at least up to Thursday, and that he could have an opportunity to come before us and he would be furnished with a copy of the complaint.

Mr. SMITH. There has been no opportunity for him to come yet—not until Friday.

Senator MITCHELL. I simply wish to state that we notified him.

Mr. SMITH. I wish to say briefly this: Judge Kalua is one of the educated and bright native Hawaiians; a graduate of their highest school. He is a Hawaiian, and, as Hawaiian lawyers go, ranks high as a lawyer. He was circuit judge on Maui under the republic. I was one of those who recommended him to President McKinley that he should be appointed. It was urged, mainly then by those who were opposed to his appointment, that he had not sufficient knowledge of law, but we thought that he had performed the duties for a year or two very acceptably—very few opinions had been overruled—and I felt very strongly that he was performing the duties reasonably well, and that it would be a wise thing to continue him in office. I have been led to believe that there have been times when his personal habits in regard to the use of intoxicating liquors have not been commendable. I do not believe that those habits have interfered with his performance of his duties as a judge. In regard to the charges of corruption, these charges have been made in a general way. I think it is not fair to him. The charges are made in a general way. Rumors should not affect the character of a judge of a court of record. I have not communicated with him. I have not heard from him. In justice to him, as he is absent, it seems to me unfair for the evidence to go against him without any word lifted in his behalf. If he is so outrageous and so notorious, why have not charges been brought against him? He can be informed against. I feel that it is not fair to Judge Kalua. He is not equal in legal training to the American-European lawyers. He has a good knowledge of law, sufficient for trial of cases. I simply wish to put this on record on his behalf.

Senator MITCHELL. Now, Mr. Smith, I hold in my hand certain specific, positive charges, dated recently, and signed by three gentle-

men, in which very serious charges are made against this judge. They are signed by James E. Cooke, A. N. Kepoikai, and G. B. Robertson.

Mr. SMITH. That is perfectly correct, if they are true.

Senator MITCHELL. I want to call your attention to these charges and see what you know, if anything.

(Reads the charges.)

Do you know anything in reference to any of these charges?

Mr. SMITH. I don't know personally in regard to the charge about those two prisoners which he sentenced as charged, but I do know about this last complaint against him for having appropriated that money. I have heard the charges against him about drinking too much at times. I never heard of his being drunk on the bench. Has a copy of this been furnished him?

Senator MITCHELL. They only came in yesterday. As soon as the testimony was given on the boat I addressed a letter to the judge, advising him of the matter and giving him an opportunity to be heard before the commission, and that he would be furnished with the charges.

Mr. SMITH. I will state in regard to his not being here, that letter could not get there until Saturday. If he had come immediately that day he could have been here Sunday, otherwise no opportunity has been given him to be here until Friday. I don't wish for one moment to condone anything if these charges are true. If he has been corrupt in his office I don't wish to uphold him in doing it. As far as I had heard he had no one to represent him and had not been heard here.

Senator FOSTER. A letter was sent to him.

Mr. SMITH. A copy of the charges?

Senator MITCHELL. The charges were not filed at that time, but the charges were being prepared by parties from Maui.

Mr. SMITH. I want to say that the Maui News is edited by that same man, Robertson.

Senator MITCHELL. Don't spend any time in defending anybody from newspapers, because that is not necessary. I am speaking for myself now. When parties present these things we receive them, and they would have only the bearing of a general inquiry as to the administration here. These charges, if they should be acted on, ought to be filed with the Department of Justice, so that no injury would come to the judge himself by reason of the fact that he was not heard before us. We are not the ones to inquire into these things specifically, but the Department.

Mr. SMITH. But this is a matter of record.

Senator MITCHELL. I appreciate the spirit in which you come before us.

Mr. DAVIS. May I ask Mr. Smith a few questions? Do you think it is a properly constituted court in cases of murder to have a man sit on the bench of the appellate court, where human life is involved, with no commission and not sworn?

Mr. SMITH. As I said, yes; I do under certain circumstances. Under certain circumstances I do, and every complaint which you have made here just now, if it is true of a member of the bar, why would it not be safer—

Senator MITCHELL. Ask a question; do not argue.

Mr. SMITH. Let me answer that question. You know the law perfectly. If a supreme judge is disqualified, a circuit judge may be

of vacancies in particular cases and that provision was inserted in that constitution. That constitution was carefully studied and discussed by a very large number of the leading members of the bar of this Territory. Two years later, in 1896, that statute of 1892 was amended. The former statute permitted a substitute in a case of one member only of the court, but there had been one or two cases in which two members were disqualified, and so the statute provision was extended so as to permit substitutes to be called in when two members were disqualified. Of course that rarely happens, but so far as I know the extension even of that provision met with no opposition. There have been a number of sessions of the legislature since then, and I am not aware that there has ever been an attempt or even suggestion to repeal or alter that provision.

Senator MITCHELL. I wish to ask you this question: You think the phraseology in the organic act fully justifies the conclusion that Congress intended that these vacancies that occur from time to time should be filled by the court under the Territorial act?

Judge FREAR. The organic act provides that vacancies may be filled in the manner provided by law.

Senator MITCHELL. That is the phraseology?

Judge FREAR. That is, in the manner provided by an act of our own legislature. I don't know the intention of Congress. I know it was the intention of our Hawaiian commission, because that was discussed, and we have to construe the passage here as it reads, and not with reference to any outside intention, but the commission was aware of the provision in the constitution of the republic of Hawaii, and the matter was, of course, gone over in the committees of Congress. I was present during the sessions of both the committee of the House and the committee of the Senate during the first session at which the bill was introduced, though not at the session at which it was passed, and the provision was gone over carefully by both committees.

Senator MITCHELL. Under that law, Judge, is it not possible for the whole supreme court—the three judges that have been appointed by the President of the United States and confirmed by the Senate—to be eliminated and the court constituted of three lawyers?

Judge FREAR. If that were so it would be for a particular case only.

Senator MITCHELL. That is what I am inquiring; is it not possible for a particular case?

Judge FREAR. I don't so construe the act, because the act provides in case of the absence or disqualification of any justice the remaining justice or justices may call in, etc. Now, how can there be any remaining justice to appoint if they are all disqualified?

Senator BURTON. Just one point. Then that one would be a justice to appoint the other?

Judge FREAR. The question is whether the remaining does not mean the justice who is disqualified.

Senator BURTON. If a man is serving to try a case, and can try it at all, he is certainly qualified for all purposes of that case.

Judge FREAR. I beg pardon.

Senator BURTON. If a man can try a case at all he is certainly qualified for all purposes of that case. You can not limit his power to try that case. You can not say he is qualified to try the case and not qualified to fill a vacancy.

Judge FREAR. Qualified to try that case alone.

Senator BURTON. I say if he is qualified to try that case alone, he is qualified to fill a vacancy for that case alone.

Judge FREAR. That would then depend upon whether the member of the bar so selected was a member of the court within the meaning of that act.

Senator BURTON. You can't say he is a member of a court in part and not in whole.

Judge FREAR. It is rather a nice point to say whether a member so chosen is a justice or simply acting as a justice.

Senator BURTON. You don't think that is a matter of doubt, do you?

Judge FREAR. In a case that came before us recently able counsel argued very strenuously on that point.

Senator MITCHELL. Let me illustrate a case. Suppose, for instance, the court is convened to-day and one of the three judges is absent by reason of sickness or from any other cause, as the act says. The two remaining justices proceed to fill the vacancy by selecting a member of the bar. The case goes on and gets partly through. To-morrow morning one of the other original judges can not be present by reason of sickness or absence for any other cause; now, can you fill that vacancy?

Judge FREAR. I presume that the third member of the court could fill that vacancy.

Senator MITCHELL. Suppose the case is still not finished the third morning and the remaining judge is killed in the night, or is sick or went off on a trip, or is absent for any other cause. Now, I want to inquire, are not those two judges that have been called in from the bar, can't they fill that vacancy and thus eliminate the whole supreme court?

Judge FREAR. In regard to that I would say, first, that there would be a question as to whether those members of the court, if we may call them such, were within the contemplation of the statute.

Senator MITCHELL. What is your opinion on that subject?

Judge FREAR. Well, I think that I should—of course this is offhand, the question has never arisen and will not be likely to arise, and if the act should be so construed the legislature could very quickly remedy the objection.

Senator MITCHELL. One of two things would happen. Either the two judges would have the right to fill the vacancy or else the two judges sitting alone would try the case. In either case the supreme court is eliminated.

Judge FREAR. That is objectionable, no doubt. I think that perhaps the history of the act might have some bearing upon its construction.

Senator BURTON. It would explain the way in which it came about, but I—or do I understand you to say it is objectionable?

Judge FREAR. It is no doubt objectionable. The question is, is there any better alternative? This provision is not altogether unique. I don't know the process corresponding to it in the States, but I know members of the bar are permitted to be called in in a good many of the States.

Senator BURTON. Can you designate?

Judge FREAR. I think Missouri, Indiana, Georgia, Arkansas, Mississippi, North Carolina, Kentucky, and Tennessee, and, I believe, the supreme court of Georgia has held that the oath of the member of the

bar was sufficient and that no additional oath was necessary as a member of the court.

I should like to say that in my opinion the third circuit judge is necessary in this circuit. The calendar seems to be constantly gaining on the circuit judges, and I was informed the other day that there were between 400 and 500 cases now pending in the circuit court, most of these being law cases before the circuit. I understand that it is frequently a question with members of the bar as to whether it would be worth while to bring a case because of the length of time that must elapse before it can be tried.

Senator BURTON. Under the present system, suppose you had 40 judges, they could not do any more work than one?

Judge FREAR. That would depend. Not under the present holding; not at the same time.

Senator BURTON. As a matter of fact, one can sit now and only one?

Judge FREAR. One can sit in law, one in probate and in equity.

Senator BURTON. If a court was divided and you had two divisions, you could do the work?

Judge FREAR. I think that the facts speak louder than opinions on that point. Immediately before annexation we had two judges, able and industrious judges, and they could not keep ahead.

Senator BURTON. Two judges on the bench—one who has just left the bench says that two judges could do the work and have time to spare.

Judge FREAR. I think facts speak for themselves.

Senator BURTON. You don't think they would willfully misstate, knowing the facts to be otherwise? Or do you think they don't know?

Judge FREAR. I don't wish to charge that. I merely wish to say what my opinion is.

Senator BURTON. It is not a question of opinion. It is a question of facts. They say, one on the bench and one of them just gone off the bench, that two can do the work and have time to spare. Now, is anybody better qualified to speak than those judges who have done the work?

Judge FREAR. I think there is something to be said. Others are as well qualified, others who are disinterested parties to a greater extent; still I don't question that anyone who has testified in this case——

Senator BURTON. How many people are there in this city?

Judge FREAR. Forty thousand.

Senator BURTON. How many on this island?

Judge FREAR. I think in the neighborhood of 60,000. I can not state exactly.

Senator BURTON. How many in the district presided over by the circuit judges?

Judge FREAR. I think about 60,000. I would not be certain.

Senator BURTON. Now, do you know of any constituency upon the mainland that needs three judges to do the business for 60,000 people?

Judge FREAR. I don't think we can compare the amount of law work for the number of people. I think we have more law business here in proportion to the population than elsewhere. There is an average of 12,000 cases a year, including cases in the district courts, and I think between 500 and 600 here in the circuit court on this island.

Senator BURTON. Any other island?

Judge FREAR. For this island alone, when I speak of the circuit court, between 500 and 600 a year.

Senator BURTON. Do you think that two judges could not handle that many cases?

Judge FREAR. They have not.

Senator BURTON. The majority of cases of that kind are not long drawn out?

Judge FREAR. I think the trials are not unduly drawn out here as a rule.

Senator BURTON. Large percentage of criminal cases, are they not?

Judge FREAR. No.

Senator BURTON. Most of them civil?

Judge FREAR. The majority—the criminal cases—are generally tried first, and the civil cases are allowed to wait; but I can say this: At present I presume there are in the neighborhood of 300 or more cases on the circuit-court calendar.

Senator BURTON. How many of those cases are passed from term to term by agreement of counsel?

Judge FREAR. I don't know; but I think if there is any question as to the reduction of the number of judges that could better be considered when the calendar has been reduced; that is, when the judges have caught up, if they should catch up during the next two years. Then the number of circuit judges could very well be reduced, but at the present there are hundreds of cases upon the calendar, and no immediate prospect of their disposition.

Senator BURTON. How do you construe the statements of the two judges as showing that they did do the work and could do the work without any trouble?

Judge FREAR. Simply that I differ from them in my opinion as based upon the facts.

Senator BURTON. Then they simply made a misstatement?

Judge FREAR. A misstatement of their opinion as to what could be done in the future.

Senator BURTON. And as to what has been done in the past?

Judge FREAR. I have not heard the exact statement.

Senator BURTON. They were sweeping in their statements to us.

Judge FREAR. I see in this calendar, which is the calendar for the May term of last year, there are 330 cases. Some should be taken out, but probably there are nearly 300, and that was more than a year ago.

Senator BURTON. Who else is on the bench that is familiar with the workings of that court?

Judge FREAR. Judge Robinson.

Senator BURTON. The only judges that have testified before us that have served on that bench have said they did not need a third judge.

Judge FREAR. One of the judges has just left the bench, I believe. I should think that the testimony of former judges might be of some value.

Senator BURTON. Present judges are better—those on the bench or those who have just been on the bench.

Judge FREAR. No doubt.

Senator BURTON. Still, the truth is the truth. There is no difference where it comes from.

Judge FREAR. I was just going to say, take the calendar for this year. Three hundred and thirty last August; this year, 407, with some deductions to be made for blank spaces.

Senator BURTON. How many cases are on both calendars?

Judge FREAR. I have not compared them. They were just handed to me.

Senator BURTON. I know, but before you give a statement of that kind you should make a comparison and you should know how they make up the calendars. Often there are cases hanging from year to year—cases dragging on months and years.

Judge FREAR. Yes.

Mr. DAVIS. Mr. Chief Justice Frear, you were recently absent from the Territory?

Judge FREAR. Yes.

Mr. DAVIS. Judge Galbraith was also absent?

Judge FREAR. Yes.

Mr. DAVIS. And the only remaining justice was Associate Justice Perry?

Judge FREAR. Yes.

Mr. DAVIS. They held a supreme court and W. O. Smith and John T. De Bolt sat?

Judge FREAR. I believe they did, on a matter from the auditor.

Mr. DAVIS. Well, it was a case.

Judge FREAR. I believe they did not pass on the question of jurisdiction.

Mr. DAVIS. They held a supreme court?

Judge FREAR. No; they did not.

Mr. DAVIS. Well, wasn't it a court?

Judge FREAR. It was a court, but not the supreme court.

Mr. DAVIS. What kind of a court was it?

Judge FREAR. There is a special statute providing for appeals to the justices of the supreme court.

Mr. DAVIS. Those two constituted justices of the supreme court?

Judge FREAR. They acted as such.

Mr. DAVIS. Now, do you think, where the organic act provides that judicial power shall be vested in one supreme court, and then the local statutes, the Territorial statutes, which are incorporated into it provide for the appointment of three justices, and the organic act provides they shall be appointed by the President of the United States, do you consider that with only one judge appointed and commissioned and sworn that that would be constitutionally a supreme court?

Judge FREAR. There is not the slightest question about it.

Mr. DAVIS. I mean two lawyers and one judge.

Judge FREAR. There is not the slightest question about it. It is so provided in the organic act. It has been held over and over again in the United States Supreme Court.

Mr. DAVIS. These lawyers are not sworn?

Judge FREAR. They are sworn as attorneys.

Mr. DAVIS. Are they?

Judge FREAR. Yes; necessarily.

Mr. DAVIS. I didn't ask that. Are they sworn as judges?

Judge FREAR. No.

Mr. DAVIS. Not commissioned?

Judge FREAR. Not commissioned.

Mr. DAVIS. Then they have no responsibility except as members of the bar?

Judge FREAR. A formal request is always made by the remaining justice and sent to them.

Mr. DAVIS. They are not commissioned or sworn?

Judge FREAR. No.

Senator MITCHELL. Does the local law require, in the case of a vacancy of that kind, that you select first from the district judges?

Judge FREAR. We do as a rule, but is not mandatory.

Mr. DAVIS. You can go at once to the bar?

Judge FREAR. We can go at once.

Mr. DAVIS. Why were not the circuit court judges called in in this time in your absence? Do you know of any reason?

Judge FREAR. I don't know of any reason.

Mr. DAVIS. How many times have you called in judges of the circuit court last year? More than once?

Judge FREAR. I don't remember how many times. I think in a number of cases where the members of the supreme court were disqualified the circuit court judges were also disqualified, and that was the reason members of the bar were called in.

Mr. DAVIS. Were they the only ones last year?

Judge FREAR. I could not say. There were very few cases, and I think in most of those the members of the circuit court were disqualified. In some instances we did not call them in because they were exceedingly busy. It is only recently that it has been decided that only one could hold court at a time; whether that rule is correct or not is not a question now.

Mr. DAVIS. It says either of which may hold court—that is, not two courts.

Mr. SILLIMAN. Are you in favor of appeals from the supreme court of this Territory under a limit, for instance, of \$5,000?

Judge FREAR. I can not say that I am. I think that possibly appeals might be preferable, to have appeals in some cases, if the line should be drawn so as not to work hardship. I don't know; possibly that would be a proper way to draw the line. I can say upon that point—it is a rather delicate point, as it relates from appeals from my own decisions.

Senator BURTON. That has nothing to do with it. Just treat the judge as being absent and consider the principle involved.

Judge FREAR. I can say that that question was considered very carefully by the Hawaiian Commission and gone into by the committees of Congress.

Senator BURTON. It was made this way on recommendation of the Hawaiian Commission?

Judge FREAR. It was. I can say I myself at that time was a member of the commission, and so with the other members we understood that a majority of the bar preferred that system—the present system. There are several things to be considered. In the first place, the judiciary here is formed and organized on State lines—that is to say, Congress formed the judiciary unlike that created in any other Territory at any time. There is a Federal court here as well as the local courts. The Federal court has jurisdiction on Federal cases. The supreme court has jurisdiction in both questions, Federal and local.

Now, in all cases in which Federal questions are involved before the local supreme court of the Territory —

Senator BURTON. There is an appeal now.

Judge FREAR. Writs of error may be taken to the Supreme Court of the United States. Thus it is in local cases only in which the decisions of the Territorial supreme court are final.

Senator MITCHELL. Suppose this case. For instance, in Oregon a citizen of Oregon has a claim against a citizen of the Territory of Hawaii. Now, under the rulings and well-settled doctrine of the Supreme Court of the United States, he can not go into the Federal court, because it is not a controversy between citizens of different States, but it is a controversy between a citizen of a State and a citizen of a Territory. He is compelled, therefore, to bring his suit in the Territorial courts, not in the Federal court, whether it be \$50,000 or \$500,000 that is involved.

Judge FREAR. I presume so. I think it might not be unwise to have some qualification in such cases.

Senator MITCHELL. It struck me that a man, under such circumstance, ought to have his case determined by a higher court.

Judge FREAR. I think it might not be out of place to say that appeals are not allowed now from the supreme court of other Territories to anywhere near the same extent as formerly. I remember recently reading a decision by one of the circuit courts of appeal construing a question from Congress, as to whether an appeal lay, as an appeal had arisen in such cases. In the Territory of New Mexico argument was introduced to allow the supreme court of the Territory to determine cases finally. The circuit court of appeals saw no objection. I believe in the State of Oregon there are only three members, and there are three members here. Then, again, this is what our people have been used to for fifty years.

Senator BURTON. Anything else?

Mr. DAVIS. I would like to ask the chief justice a question. Do you think it would be more satisfactory to have the judges elected?

Judge FREAR. Undoubtedly not.

Mr. DAVIS. They are elected in Oregon, are they not?

Judge FREAR. I think they are.

Mr. DAVIS. You would not be in favor of electing the judges?

Judge FREAR. I would not.

Mr. DAVIS. You were in favor of a life tenure for the judges?

Judge FREAR. No, sir; I opposed it.

Mr. DAVIS. Who favored it on the commission—Dole?

Judge FREAR. I would prefer that he would speak for himself.

Mr. DAVIS. Wasn't the provision put in?

Judge FREAR. It was inserted by a majority. I was not in favor of it.

Mr. DAVIS. You would not be in favor of electing the judges?

Judge FREAR. No; I would not.

Mr. SILLIMAN. What was the view of the commission in regard to the third provision or the twenty-fifth section of the judiciary act, permitting writs of error from the supreme court to the United States from States? Was it the opinion that a writ of error could be sued out where it was not the State but the Territory involved?

Judge FREAR. So I understand.

Mr. SILLIMAN. Did you have the case of *Miners v. The State of Iowa*,

12 Howard? Is the statute of the Territory like the statute of a State in that respect?

Judge FREAR. No; that would not apply, I think, to the Territory of Hawaii.

Mr. SILLIMAN. Well, would it apply just as much as this rule of cases in the ordinary State? You can not remedy a cause where it is brought between citizens of a Territory and a State in the Federal courts?

Judge FREAR. Of course that question has not arisen here at all. It has not been passed upon; but I can say there is a chance for argument at least. The distinction is perceptible between those.

Mr. SILLIMAN. If that decision was made there would be no way of reviewing decisions of this court.

Senator MITCHELL. Our attention has been called to this and we will look into it.

Mr. L. A. THURSTON. Has your attention been drawn, Judge, to the expense incident to appeals from the Federal court to the circuit court of the district of California?

Judge FREAR. It has.

Mr. THURSTON. Can you say whether or not the expense of appeals to the supreme court cuts any figure?

Judge FREAR. I have understood that appeals have been very expensive, and it was because of the distance, resulting both in delay and expense. That induced the commission, and, I think, Congress, to make this special provision. It is a practical denial of justice to the poor man in many cases.

Mr. THURSTON. Do you know of the amount of the expense in any case carried up to appeal?

Judge FREAR. I have heard in the Wilder Steamship Company case the expense was \$10,000.

Mr. THURSTON. Do you know of any other cases?

Judge FREAR. I have heard of only one other case—I don't remember the name of it—in which the amount for simply transcribing the record was two or three times higher than the same amount of printing would cost here.

Senator MITCHELL. It is optional with the defeated party as to whether he shall take an appeal or a writ of error?

Judge FREAR. Oh, yes. I may say, now that your remark suggests it, that in calling in substitutes on the supreme bench it is optional with counsel as to whether they shall be called in. They generally prefer it.

Senator MITCHELL. Are those attorneys that are called in to try a certain case—do they get any compensation?

Judge FREAR. No compensation.

Senator MITCHELL. They receive no pay?

Judge FREAR. No pay whatever.

Mr. DAVIS. You never called me in since I have been in the country?

Judge FREAR. I don't remember, but I think quite likely not.

Mr. DAVIS. But the governor did?

Judge FREAR. The governor appointed you as circuit judge on two occasions.

Mr. DAVIS. You never called me in.

Judge FREAR. When you were circuit judge?

Mr. DAVIS. You never called me in to deliberate with the supreme court.

Judge FREAR. I don't remember now that we have.

Mr. DAVIS. But you have called in men who have only been in the country a couple of years, haven't you?

Judge FREAR. Some.

Mr. DAVIS. Lots of strangers?

Judge FREAR. I don't know whether I have called in any who have been in the country only two years.

Mr. DAVIS. I have argued some of the most important cases before your court.

Judge FREAR. Yes.

Mr. DAVIS. Why have you never called me in? I want to know now; you talk about the thing being all fair.

Judge FREAR. We generally call in the circuit judges.

Mr. DAVIS. But you have called in members of the bar just fresh out of school. Why haven't you called me in? Do you know?

Judge FREAR. I don't think that is a question that I would be expected to go into.

Mr. DAVIS. What is the reason you never called me in? I want to know.

Judge FREAR. There are a good many other members of the bar we have never called in.

Senator MITCHELL. How many members in this Territory; about?

Judge FREAR. I think nearly 100 on the rolls who reside here. I could not say how many are actually practicing. I think more than 40.

Judge GEAR. Judge Frear, will you kindly state why you have not called in the circuit judges in the place of attorneys?

Judge FREAR. We have very often when they have been qualified, except during a portion of last year, when they were very busy. That was the reason.

Judge GEAR. How many times have I been called in?

Judge FREAR. I don't remember the times.

Judge GEAR. Only once. Is it not true?

Judge FREAR. You, being a circuit judge, are often disqualified.

Judge GEAR. There have been a number of cases in which I was not disqualified, and neither was Judge Humphreys, and attorneys were called in without asking either one of us to assist.

Judge FREAR. We have sometimes asked the circuit judges, and they have been busy or were engaged.

Judge GEAR. Did you ever ask me to sit and I said I was busy?

Judge FREAR. I can't remember. I know you have sat with us.

Judge GEAR. You made the statement that sometimes we were busy and could not sit. I have often wondered why it was that the circuit judges were not called in. Do you know of any reason? Do you remember of ever asking me to sit?

Judge FREAR. You have not been on the bench a great while and you have been absent from the Territory a great deal.

Judge GEAR. I have been on the bench over a year.

Judge FREAR. But you have been absent.

Judge GEAR. Is it not true that I have been in the country the great portion of the time?

Judge FREAR. In some cases you have taken part as judge. I think there are very few cases in which you could sit where we have not

called in the circuit judges. Many of the cases came up when the circuit judges were holding term.

Judge GEAR. Mr. Chief Justice, is it not a fact that I have been disqualified only in the cases I heard. Cases come up from all over the islands and from Judge Humphreys's court, where I would not be disqualified.

Judge FREAR. There have been very few cases in which substitutes have been called in.

Judge GEAR. You say we have been busy.

Judge FREAR. That is one reason.

Judge GEAR. Is there any other reason?

Judge FREAR. One reason; because you were disqualified in a great many cases.

Judge GEAR. Any other reason?

Judge FREAR. Other reasons; you have been busy.

Judge GEAR. Do you know any cases in which I have been busy and could not sit?

Judge FREAR. I know there have been cases in which the circuit judges could not sit. I don't remember about your particular case.

Judge GEAR. Is it not a fact, Mr. Chief Justice, that the court has not asked either Judge Humphreys or myself, except in one or two cases, but that you have called in members of the bar without asking the circuit court judges, as contemplated by law?

Judge FREAR. That is not the intention of the court. During a busy time Judge Humphreys spoke to me on this subject, approving the course in not calling in the circuit judges when they were so busy.

Senator MITCHELL. We are very much obliged.

ROBERT WILCOX, recalled.

Mr. WILCOX. I want to bring to the attention of the committee and citizens the so-called crown lands. Ever since 1872 the crown lands have been inalienable. At the time of the monarchy parties wanted a little piece of land, and there was nothing there but dry land, and they fence it up and pay the rent under the monarchy, and lately the Territorial government here take the land from them without notifying them and giving in exchange the benefit of the rapid transit, that is the road to Waikiki, with this already 60 feet they added 40 feet more for the benefit of the rapid transit to freeze out the tramway, making a monopoly of the rapid transit and take away the homes of these poor people. Their homes are taken from them and given to the rich estate of Kapiolani, Limited, to drive them out of the land, and of course exchange of land has to be sent over to Washington to be approved. What I want to recommend to the commission is to stop the approval of this land from the Interior Department or the President of the United States.

Also in Maui the political management of this government give lands to lease without advertising. A big tract of land, 7,000 acres, Kanaiu. The natives there, 10 families born there and lived there. They asked me to go around and see the political bosses of the present government, they were bothering them and have their horses put in the pound and all that, which I ask the superintendent of public works here, James Boyd, if I might put that land up at auction, at least come in and take a hand. He told me the property was already a part of this Hulapalakua. I go now to the fact here, these people are

going to be deprived of home, when they have been here over thirty years. The governor never notified them. It is all the widening of this Waikiki road.

I want to call attention to the building of the wharf. Employed Hackfeld to build \$100,000 wharf, and the governor say, I was told, promised them to be paid by the next legislature. Now, I want to call attention to that because I think the legislature here has no right to pay for any wharf. It ought to be built by the Federal Government. This I want to call to the attention of these persons.

Senator MITCHELL. Have you a statement in writing that you wish to read?

Mr. WILCOX. I will furnish a statement in writing.

First, those people that are on lands and bothered. Senator D. Kalaauokalani, their home taken away from them, and N. W. Holi and Mrs. N. W. Holi, the widow went there in 1868, and Mrs. Kaahanui in 1872, and their homes are taken away from them. [Reads:]

"To the honorable subcommittee of the United States Senate Committee on Pacific Islands and Porto Rico:

GENTLEMEN: Among the existing need and more urgent necessities of this Territory, which I deem it important that your honorable committee should investigate and, with your recommendation thereupon, report to Congress, are the following:

1. Some speedy provision by Congress for payment of the fire-claims awards to the sufferers by the great fires in Honolulu, during the reign of the bubonic plague in January, 1900.

The whole truth of it is this Chinatown is a sore eye to the people here. The white element say that it ought to be burned down anyway because it was Chinatown. I do believe it is the whole thing. A Chinaman told me that the day they put fire to that place there they told him a windy day they wanted. The board of health told them, is it that day, and say they want a windy day and that is the whole thing—to burn that part of town—they had in their mind, because Chinatown was a sore eye and drive the Chinese outside of the town because Honolulu is growing and they do not want Chinatown there, for it is a sore eye to them. I believe that is the whole thing.

Senator MITCHELL. Well, Mr. Wilcox, do you think Congress ought to pay these claims?

Mr. WILCOX. I think they ought to pay them because they are poor people, sir. These people squander \$800,000 of government money.

Senator MITCHELL. That is not the question. There is now \$1,000,000, \$1,500,000 reported by these commissioners. What is your opinion, Should Congress pay these claims or not?

Mr. WILCOX. Well, I think they ought to help this Territory. They are poor now. They have done nothing and could do nothing. They are poor people.

Senator MITCHELL. Do you think the fire was simply the result of a disposition to get rid of Chinatown, or was it the result of an honest, straightforward effort to stop the plague?

Mr. WILCOX. Well, to stop the plague; but it burned Chinatown at the same time. That is my opinion, my belief. I was away at the time that was burned. I was in Washington working for the franchise of the Hawaiians, trying to oppose that commission which was trying to disfranchise them and keep them from voting.

2. The erection of a suitable Federal building in the city of Honolulu, for the purposes of a Federal court, post-office, custom-house, and the other usual and incident Federal offices.

Such building should, in my judgment, cost \$1,000,000; and should, for purposes of both convenience and economy, be erected at the northwest corner of the grounds of the present executive building; and I invite the attention of your committee to the desirability of that location as a site for such building, for the reasons I have named.

Senator MITCHELL. Is that public property?

Mr. WILCOX. Yes; public lands. In the government report they recommend a little piece down here, 270 feet one side by 150 feet, probably belonging to three or four private parties. There is a map of the governor's report here. That is the reason that I call the attention to the location here.

3. That the land laws of the United States be extended to this Territory, with a modification that 40 acres shall constitute a homestead.

For the purpose of such a provision, and of suitably adapting it to the conditions of this Territory, I would recommend that the Commissioner of Public Lands at Washington, D. C., be empowered and directed to send experts to this Territory to make all necessary investigation of the subject, and report the result of such investigation to Congress.

What I want to call attention to is this—to our President's message, page 23 of the message of the President of the United States. The middle class of people here support that message, and the Home Rulers uphold homesteading. Of course the sugar men don't like it, because they want to make this a country for rich men alone and coolies and Chinamen and Asiatics. They don't want any white men here, no Americans. This country has about 90,000 Asiatics—60,000 Japanese and 30,000 Chinese. I had a long talk with the Land Commissioner at Washington. They could take care of our land here better than we could. Our people here make political use of these, giving the supporters of the political managers leases without advertising, and none of these poor people can get the lands.

The area of the government lands is a little over 2,000,000 acres—6,449 square miles altogether—and the best land, of course. About the time of the grand division of land—when they divided first—the government lands were about 194,500 acres, crown lands 984,000, land of the chiefs 1,619,000, kuleana land given to the common people, 28,600—altogether, 4,286,000 acres. Lately, after the overthrow of the Queen, Mr. Damon, minister of finance of the government land under the provisional government, called the surveyor-general to give an estimate of the government land left, and the result came this way, what I stated, 4,286,000. Now, the approximate land left to the government, after the overthrow in 1894, is only 828,000 acres.

The corporations, etc., who came here and built sugar plantations under the reciprocity treaty hold 1,963,600 acres. Besides this, in fee simple, they got nearly all the government land in their hands in long leases. Now, I submit that all this land in the hands of a few men—60 corporations, with 2,000,000 acres in their hands in fee simple. The other 2,000,000 of land, little less than 2,000,000, is in their hands on long leases, and they don't want anybody to go onto this land. I want to call the attention of the commission to recommend to the land commissioner to get at it here and to send an expert to investigate this, so that as soon as the leases expire to cut up this land into homesteads of 40 acres or a little less, according to valuation. The lands here are very valuable. The sugar land in this country is limited to 100,000 acres, the valuation running from \$500 to \$2,000 per acre. I could prove to your commission by the report of Dr. Stubbs, sent out

here by the Agricultural Department, the valuation of the sugar lands. The rice land is limited to only 10,000 acres. Coffee land only 6,000 acres. The sugar land is at an elevation of 10 feet up to 2,000 feet, and above that no cane will grow. They can grow coffee up to 3,000 feet.

Dr. Stubbs here, on page 58 of his report, gives the statistics. In the report of the Olaa sugar plantation, on page 12, I will read.

Senator FOSTER. How do you arrive at the cost value of sugar?

Mr. WILCOX. The market at San Francisco.

Senator FOSTER. Based on the San Francisco market?

Mr. WILCOX. Yes.

Senator FOSTER. What is the price in San Francisco?

Mr. WILCOX. Runs between 3 cents—sometimes 4½ cents.

Senator FOSTER. What is it now?

Mr. WILCOX. Now, I think, 3 cents. A little more than 3 cents.

Senator FOSTER. How long since it sold for 4 cents?

Mr. WILCOX. Some time ago.

Senator FOSTER. This year?

Mr. WILCOX. This year a little below. Came down nearly to 3 cents.

Senator FOSTER. Did it sell for 4 cents last year?

Mr. WILCOX. Not last year. Way back from that, all these sugar lands were making a profit. Of course, these lands are very valuable where they have sugar. I am not against the sugar industry.

Senator MITCHELL. Do you know what it costs to get sugar from the plantations to San Francisco?

Mr. WILCOX. By sailing vessel, net cost? And in the States on the railroad, it costs something there.

Senator MITCHELL. Well, you don't go very often on the railroad.

Mr. WILCOX. Some go by ship from here to San Francisco, and some go to New York by ship.

Senator MITCHELL. New York, estimate on what profits are being made. What all do you consider is the cost of production and transportation?

Mr. WILCOX. Well, I got the cost given by Dr. Stubbs and the managers of the plantations, nearly \$300 per acre, and a yield of 10 tons an acre average, and at that time the price was \$60, and at \$10 makes \$600, making a profit of \$300.

Senator MITCHELL. In that \$300 is the cost of transportation included?

Mr. WILCOX. No. Suppose we put in \$100, which is very high.

Mr. THURSTON. I understand it costs \$15 to \$17 a ton.

Mr. WILCOX. One hundred and seventy dollars to New York, 10 tons.

Judge HUMPHREYS. Dr. Stubbs gives a little less than \$5 a ton to produce sugar.

Mr. WILCOX. I think so.

Judge HUMPHREYS. That would leave an enormous profit, even granting that.

Mr. WILCOX. Of course, the land is limited in area, 100,000 acres, according to Dr. Stubbs, and on these 100,000 acres about 40,000 men were employed. That explains the valuation of this land. Then the wet land—taro land and rice land. To-day there is about 10,000 acres in rice and 1,000 in taro. Even at that they make out of the taro land

where they make poi between 300 bags up to 600 bags per acre. At 1 cent on an average of 450 that would make \$450 they make an acre. Of course there are expenses. One man can take 3 acres of taro. A Chinaman at \$12 and \$6 a month for rations makes \$18, and fifteen months is the longest for taro. Even taro land is very valuable. Dr. Stubbs has got it here. That is the reason I state in my paper that we ought to get an expert out here for the wet land, which the native prefers. I know on Maui my constituents asked me when a lease on 70 acres was nearly expired, which the sugar plantation had, for the lands to be divided into 1-acre pieces. One acre of cane land would support a family. The government wants to give all those leases to the sugarmen. They have got no interest in the people here. My idea is when these leases expire to cut them up into farms for American farmers, young men 20 to 30 years. We have got the best climate down here. The climate was cold when I was in Washington. This talk that white men could not work in the sugar cane is all nonsense. It is not so hot as it is in Washington when it gets hot. Of course, we have it all the year round, always the same; that is the trouble. I believe the Chinese is the best laborer we have got. We have got 100,000 Japanese. They won't work on the plantation. They work six months and then they get out.

Senator MITCHELL. Are you in favor of any change in the immigration laws?

Mr. WILCOX. Well, I favor if the people help me first to get the homestead open, first be settled by the settler and then the laborer.

Senator MITCHELL. I thought you were going to say if they helped you to get elected.

Mr. WILCOX. Another point here on my paper:

4. That the leper colony at Kalaupapa, on the island of Molokai, be taken under the care, control, and maintenance of the Federal Government as a reservation for leprosy persons, under the direction of the Secretary of the Treasury, but that no leprosy persons other than those of the mainland of the United States and of this Territory be allowed on such reservation.

Because we don't want lepers from the Philippine Islands——

Mr. THURSTON. Do you want them to come from the United States?

Mr. WILCOX. In the United States there are only 300.

Mr. THURSTON. You want them brought down here?

Mr. WILCOX. Brought down here; the whole thing up there; they get no care there. The last legislature when they go up there find they have rotten salmon, rotten bread, rotten clothes, and a store there built so that the board of health make 10 per cent out of it.

Senator MITCHELL. What are the findings of the committee?

Mr. WILCOX. That is the report of the committee. Each person was sworn and answered questions, and this is the whole report of the committee, last legislature, and I know the fact.

Judge HUMPHREYS. Isn't it a fact that that store is run over at Molokai so that merchants can unload shelf-worn goods onto this store?

Mr. WILCOX. They have always done it. I know some members of the board of health do that and send up bad things to the poor lepers and charge them full prices.

Judge HUMPHREYS. Is that not the reason the local government wish to retain control?

Mr. WILCOX. I don't believe in the board of health being in business, and I know not this board of health, but ones before, and I say

political managers of the government here and the board of health do this. It is not the only objection. There is another objection. I say the natives dread this place being under the board of health. They have no confidence in the president of the board of health, the natives have not.

Since the beginning of the board of health, since the segregation of the lepers there, there have been about 40,000, and it is just the same to-day, 1,000 every year—never any decrease. They never mind the people here, most of them. They look upon the doctor of the board of health and they think he vaccinates the children with leprosy—puts leprosy in their children. Parents here good and clean, the children vaccinated in the school, and they turn out lepers. You can blame the doctors of the board of health. The lepers have no confidence in the present government. They think that place is kept up for the benefit of this board of health, for gouging \$100 a year off the leper. To save all this trouble, I believe it is the whole thing, the opinion there that the United States will see that the poor leper is well taken care of. They will build a hospital there, and the United States is a big Government, not like this one-horse concern here, and they will see that the poor leper is well taken care of. This is my belief. I know all the natives are scared of that place, scared of these people, scared of the board of health. When we have got a municipal government, then we will have a board of health from the people, and not one appointed either by supporters of the government or political managers and all that. We can not blame them making money. They make money out of the leper—out of anything.

5. That the light-house system of this Territory be taken under the direction of the Secretary of the Treasury, and be made part of the mainland system.

Senator MITCHELL. We all agree to that.

Mr. WILCOX:

6. That the War Department be directed to send its engineers to survey the harbors of this Territory and to furnish that Department and Congress with estimates for dredging the same and constructing necessary breakwaters.

7. That a revenue cutter be provided for this Territory, at a cost of \$250,000.

Senator MITCHELL. Anything else?

Mr. WILCOX. No. My great idea is to get this land system so all the people—native, white, and every American citizen of this country—can have land, and not as it is now, in the hands of a few men. In Kauai, Kapaa, Crown land, some thousand acres, the lease is nearly expired. I know if it be left to the Government it will not be cut up and auctioned off to the poor man, but will go into the hands of the sugar plantations. Those lands ought to be opened up to American citizens. The Hawaiians want land, these poor women and men, and the government here just takes it away, and for the benefit of widening the road for the benefit of a private company.

Judge HUMPHREYS. Is there not a law here under which a private corporation can exercise the right of eminent domain; is it not a fact that that is a law? Has not the Rapid Transit the right of control, and is not the Hawaiian government making these transfers to put control in the hands of its supporters?

Mr. WILCOX. Yes. They widened that road.

Judge HUMPHREYS. Did the legislature provide for it?

Mr. WILCOX. That is not necessary.

Judge HUMPHREYS. Has the legislature provided for it?

Mr. WILCOX. No, the legislature did not provide for it; and this big wharf—they say the legislature will have to pay that.

Judge HUMPHREYS. Was the building of that wharf let at public auction?

Mr. WILCOX. Not at all. Private party and private money, expecting to be repaid from the Territorial legislature. That was given to the government supporters. There was an exchange.

Judge HUMPHREYS. Will you name the men?

Mr. WILCOX. I know they are supporters of the present government.

Judge HUMPHREYS. Who are they?

Mr. WILCOX. I don't know their names.

Judge HUMPHREYS. Do you know the president?

Mr. WILCOX. You see the company—they give a list of names.

Mr. W. O. SMITH. I know this matter that you refer to, I think—this matter of exchange from Dr. Raymond. It was not an exchange. You are mistaken. It was for the widening of a street over here and had nothing to do with the Rapid Transit.

Mr. WILCOX. In exchange it was leased to him without being put up at auction.

Mr. SMITH. I drew the papers myself.

Mr. WILCOX. Not only that, the water right to the Polipoli of the natives there was given to private parties.

Mr. SMITH. In regard to the Polipoli matter, don't you know the water right of Kaneoli, that they have a license to develop that water on the express condition of maintaining suitable places for cattle and animals?

Mr. WILCOX. This land has been taken from the natives and given to this man Raymond.

Mr. SMITH. Have you examined the papers? The government has the right to take it over at any time.

Mr. WILCOX. I don't know. The political managers and Dr. Raymond are concerned.

Judge HUMPHREYS. Do you know a case like this: A supporter of the government has bought a narrow strip of land in Honolulu which is of no practical use or purpose whatever and has exchanged that narrow strip of land for country land of a large area?

Mr. WILCOX. Yes; that is the reason I want an officer here to investigate all this.

Judge HUMPHREYS. Is it not a fact that by exchanging a little bit of insignificant land in Honolulu supporters of the government have gotten a large and valuable piece of land in the country?

Mr. WILCOX. That is what they are doing.

Judge HUMPHREYS. Under the guise of making an exchange?

Mr. WILCOX. We could not get it because we are not supporters of the government.

Dr. C. B. WOOD. Mr. Wilcox, you stated that somebody whom you designated as "they" deliberately chose a windy day because "they" wished to burn the whole of Chinatown. Who do you mean by "they?"

Mr. WILCOX. I said a Chinaman told me.

Dr. WOOD. Did the Chinaman tell you who he meant by "they?"

Mr. WILCOX. "They" means the board of health. They knew it was a windy day. I was told that.

Dr. WOOD. You didn't say definitely who "they" was.

Mr. WILCOX. "They" means the board of health.

Senator FOSTER. Simply told you by the Chinaman?

Mr. WILCOX. Yes; the Chinaman told me.

Senator FOSTER. Took advantage of a windy day, wanted a windy day!

Mr. WILCOX. It seems so. I know well it was a sore eye to the people here, this Chinatown. Of course the bubonic plague was in a little place.

Senator MITCHELL. You said simply what some Chinaman told you?

Mr. WILCOX. Some Chinaman told me. I was not here. I was in the United States at the time they burned down the place.

FRANCIS M. HATCH, sworn.

Mr. HATCH. Age, 50 years; residence, Honolulu; occupation, attorney at law.

Senator MITCHELL. How long have you lived in the islands?

Mr. HATCH. Twenty-four years, and I have been engaged in the practice of law for that time in Honolulu.

Senator MITCHELL. Have you held any public position in the islands? If so, what?

Mr. HATCH. I held no position under the monarchy. I was a member of the executive council of the provisional government and minister of foreign affairs under the republic of Hawaii.

Senator MITCHELL. Any other?

Mr. HATCH. I was Hawaiian minister at Washington at the time of the negotiation of the treaty with Secretary Thurman.

Senator MITCHELL. Mr. Hatch, you may make any statement you wish.

Mr. HATCH. I wish to give my opinion, gentlemen, on the necessity for a third judge for the circuit court. Certainly, in my opinion, there is a great necessity for three judges in this first circuit. When I first came to Honolulu there was one court, a supreme court of three judges. They each exercised jurisdiction and sat en banc to determine appeals and questions of law, but all three judges were available for chambers, probate, equity, and trial of causes, and the three judges were kept busy, even with the amount of business which existed at that time.

Senator BURTON. Did they also have jurisdiction of appeals from the courts of the other islands?

Mr. HATCH. They did. The business increased many fold since that, twenty-four years ago. As it is to-day, I consider that it would be a great public detriment if we only had two judges in the circuit court of the first circuit. I think not only would a deadlock ensue, but that the condition would get very bad. The accumulation of business has been great. We need during term time at least one judge who has sole time devoted to criminal cases and another judge whose sole time is devoted to civil cases, and another judge on probate and equity matters, all sitting together at one time.

Senator BURTON. You mean sitting together?

Mr. HATCH. Sitting at the same time in independent departments, with the possibility of having two judges trying civil cases at the same time and that the third judge would try criminal cases, if necessary; but having only two judges there would be opportunity to try only cases of one nature during that one term. That is not the condition which we ought to be in. If that is the law it ought to be changed.

It was not considered to be the law some time ago. Judges held two courts at the same time in separate departments. There is a great deal of chambers work. The equity cases equal at least in importance the cases that come before the law court here. Most important litigation cases come up in equity form, and it must be borne in mind that the probate jurisdiction is given over entirely to the circuit judges, which, in my opinion, under the conditions here, is a very economical and satisfactory arrangement, but we should have enough judges to transact the business so that matters should not be tied up. If we have only two judges trying jury cases, one civil and criminal, we need one more judge to try equity and probate and injunction matters. A probate judge should be always available without compelling parties to wait around for the judge in between hours or after hours. My opinion is that there is enough business at present to warrant the appointment of three circuit judges for this island.

Senator MITCHELL. Anything further? Any questions?

Senator BURTON. How could three judges do any more than one judge now, when only one judge can sit at a time?

Mr. HATCH. I don't think that is the proper view of the law myself.

Senator BURTON. That is true, is it not?

Mr. HATCH. Yes; I think the legislature should change that. I think that the legislature should provide that these three judges could hold independent sittings to try jury cases in such cases as need to be tried.

Senator BURTON. If you had two judges sitting all the time and at one, don't you think they could discharge the work here?

Mr. HATCH. I do not.

Senator BURTON. Then you have very much more work for your inferior courts here than other communities, do you not?

Mr. HATCH. I am talking about this community. I do not know anything about others.

Senator BURTON. Are you not familiar with anywhere else?

Mr. HATCH. I have been here twenty-five years, and where I was before that the system was entirely different. I could only compare my native State. I have never practiced anywhere else.

Senator BURTON. Well, you have a supreme court here. This is practically the capital of the Hawaiian Islands?

Mr. HATCH. It is.

Senator BURTON. You have about 60,000 constituents. Now, what number of new cases are filed in the circuit court per annum?

Mr. HATCH. I have not the statistics at hand.

Senator BURTON. Well, there are not more than 400 new cases per year?

Mr. HATCH. Certainly not.

Senator BURTON. The average time of a case in a court, a long average, would be a day?

Mr. HATCH. No; I don't think so. Translations take a great deal of time.

Senator BURTON. More than a day average?

Mr. HATCH. Yes; we have witnesses—Hawaiian, Chinese, Japanese, and Portuguese, as well as Spanish. We need plenty of time. It has more than once happened that in all one term of court there were only criminal cases, and not one civil case has been heard.

Senator BURTON. That was the case this last term?

Mr. HATCH. Yes; any term it can be, not one case heard.

Senator BURTON. Were the civil cases ready for trial—pressed for trial?

Mr. HATCH. Could not be. There is only one judge sitting.

Senator BURTON. That was the reason?

Mr. HATCH. Yes.

Senator FOSTER. Criminal cases have the preference?

Mr. HATCH. They are entitled to a speedy trial under the constitution.

Senator BURTON. The judges of these courts, one just gone out and one still in, have said that two judges could try all of these cases and have time to spare.

Mr. HATCH. I don't agree to that. I have a decidedly different opinion. They look at it from a different standpoint.

Senator FOSTER. What do you base your opinion on?

Mr. HATCH. On my own individual experience.

Senator BURTON. If you had a local government here you would have a probate court?

Mr. HATCH. No, I would not; I think the system we have is the best system. There is not enough business for a probate judge alone exercising only probate jurisdiction. I think it a very economical arrangement to be able to keep three judges at work on any class of business that may arise; equity business or term business.

Senator BURTON. You know that is entirely different from the mainland?

Mr. HATCH. I think probably in some places.

Senator BURTON. Universally?

Mr. HATCH. I don't know, universally; I think this is the best for a community of this size.

Senator BURTON. What is the difference? We have communities of this size on the mainland; wherein do you differ here?

Mr. HATCH. I say, in my opinion, this system is excellently adapted to our local conditions.

Senator BURTON. Why are your local conditions any different from what they are anywhere else? It does not require the same amount of learning to discharge business in a probate court, and a probate judge is there at all times for that particular work and keeping the work right up, and it is more economical to have such a court than to have a court of wider jurisdiction and trial of cases, attend to this business.

Mr. HATCH. I don't think it more economical; I think it would be far from satisfactory. I think it is a distinct advantage to put probate jurisdiction on the highest possible plane. I should not be in favor of lowering the standpoint of ability required for a probate judge.

Senator BURTON. You think that the experience that has grown up through long practice is not best, the experience of the mainland universally?

Mr. HATCH. Not for us.

Senator BURTON. When you say for us, if you can possibly do so, tell why the administration of law here should be any different from the mainland?

Mr. HATCH. I think I have given one definite reason which should answer the question. I think it is a distinct advantage to have a pro-

hate judge of the highest judicial attainments possible, and that his standard should be up to that of the circuit judge.

Senator BURTON. Do you need that here when they don't anywhere else?

Mr. HATCH. We need it here. I think they need it other places.

Senator BURTON. I am asking why there is any difference, should be any difference in the administration of the law from what it is in the mainland?

Mr. HATCH. I have given you the reason why I have formed my opinion. I think that the probate jurisdiction should be exercised by a judge of the same ability as the circuit judge. Having these judges, I think it is economical, as well as distinctly wise, that the jurisdiction in probate should be exercised by the circuit judges. It is very difficult in many cases where there are important estates to distinguish between equity and probate. Many matters in the administration of wills and trusts get beyond the power of probate judges almost without knowing it, under the system which prevails in the rest of the United States.

Senator BURTON. How do we find out on the mainland when we are getting beyond the jurisdiction of the probate?

Mr. HATCH. You find you have to begin a new proceeding.

Senator BURTON. I am trying to get you to tell me why there is any difference here from there is over there.

Mr. HATCH. To trace it historically, we have a distinct advance on that system of ecclesiastical judges which prevails in England and common law judges and chancery law and equity judges, to have just one judge having all these powers. I think this is a simpler and more satisfactory system.

Senator BURTON. Your system of jurisprudence practically is in perfect harmony with what appears to be very largely monarchical instead of republican?

Mr. HATCH. Now?

Senator BURTON. Yes.

Mr. HATCH. No.

Senator BURTON. Do you know anything here republican?

Mr. HATCH. Yes.

Senator BURTON. What is it?

Mr. HATCH. I refer to the organic act.

Senator BURTON. You may talk about it, but all you have here that is republican is the election of the legislature and the election of the Delegate to Congress.

Mr. HATCH. The growth from absolute monarchy to that of a republic is a matter which takes time, and it is much better to adjust oneself to the efforts of doing the best thing possible than to criticise all the time. I would like to see the people work together in harmony.

Adjournment until half past 2 this afternoon.

EVENING SESSION.

BYRON O. CLARK, sworn.

Senator MITCHELL. State your name, age, and residence, also occupation.

Mr. CLARK. Age, 47; residence, Waihiawa, Oahu; occupation, farmer and horticulturist.

- Senator MITCHELL. How long have you resided in these islands?
- Mr. CLARK. Five years.
- Senator MITCHELL. Where did you reside before coming to these islands?
- Mr. CLARK. California.
- Senator MITCHELL. Under what circumstances did you come?
- Mr. CLARK. Came here to secure a home.
- Senator MITCHELL. Were you accompanied by anyone?
- Mr. CLARK. Not at first.
- Senator MITCHELL. Were you later?
- Mr. CLARK. Yes, sir; my family came later.
- Senator MITCHELL. Did you organize a colony for the purpose of coming here?
- Mr. CLARK. I came here and did organize a colony and took a tract of land.
- Senator MITCHELL. And they came?
- Mr. CLARK. Yes, sir.
- Senator MITCHELL. How many?
- Mr. CLARK. About five or six families from California and some others, people already residing here, numbering 13 families.
- Senator MITCHELL. Americans?
- Mr. CLARK. Yes, sir.
- Senator MITCHELL. What did you do—take up lands?
- Mr. CLARK. Secured lands from the Hawaiian Government—right-of-purchase leases, settlement-association land.
- Senator MITCHELL. How many acres to a family?
- Mr. CLARK. It varied. We decided among ourselves to apportion it according to the size of the families. There was 1,300 acres, and it averaged about 100 acres to a family.
- Senator MITCHELL. The association took up 1,300 acres?
- Mr. CLARK. Yes.
- Senator MITCHELL. Divided it to suit themselves?
- Mr. CLARK. Yes, sir.
- Senator MITCHELL. Could you do that under the law?
- Mr. CLARK. We could take 200 acres second-class land.
- Senator MITCHELL. How did you come to take up 1,300?
- Mr. CLARK. Two hundred acres apiece—I mean 200 acres to each person. We had 1,300 for 13 persons. It was divided among ourselves according to the size of families.
- Senator MITCHELL. Divided up among the different families?
- Mr. CLARK. Surveyed by the Government on our request.
- Senator MITCHELL. To what purpose did you put the ground?
- Mr. CLARK. Largely last year experimental.
- Senator MITCHELL. What was the result?
- Mr. CLARK. We are now planting pineapples largely. Some small farming.
- Senator MITCHELL. Do pineapples produce well?
- Mr. CLARK. Yes, sir; we are growing the finest that have ever been produced.
- Senator MITCHELL. What else do you produce?
- Mr. CLARK. Well, we are growing feed for our live stock, which we could not do at first. The land was absolutely worthless so far as production until it had been cultivated.

Senator MITCHELL. What did you do?

Mr. CLARK. Cultivated, fertilized, aerated it.

Senator MITCHELL. Irrigated it?

Mr. CLARK. Not until the present. We depended upon the rainfall.

Senator MITCHELL. Near Ewa?

Mr. CLARK. Between Ewa and Waialua, a table-land adjoining the military reservation.

Senator MITCHELL. Do you regard the effort to make homes there by the Americans a success?

Mr. CLARK. Yes, sir; unquestionably.

Senator MITCHELL. Will you, at your leisure, prepare a statement and forward to us?

Mr. CLARK. I will do so.

Senator MITCHELL. Give the matter full consideration. Do that as soon as you can.

HARRY JUEN, recalled.

Mr. CREIGHTON (representing Mr. Juen as attorney). I also desire, after Mr. Juen's statement, to make a statement myself.

Mr. Juen, you were arrested in 1895?

Mr. JUEN. January 8.

Mr. CREIGHTON. Where?

Mr. JUEN. My home.

Mr. CREIGHTON. What place?

Mr. JUEN. Honolulu.

Mr. CREIGHTON. At what time were you arrested, and describe the arrest?

Mr. JUEN. At about 12 o'clock at night on that day an armed force of about six or seven men came to the house and routed me out.

Mr. CREIGHTON. Who was in charge?

Mr. JUEN. An officer acting under the police department.

Mr. CREIGHTON. Uniform and badges?

Mr. JUEN. Yes; they had badges.

Mr. CREIGHTON. What did they tell you when they arrested you?

Mr. JUEN. That the marshal wanted to see me, to march down with them to the police station.

Mr. CREIGHTON. Did they have any warrant?

Mr. JUEN. They had no warrant.

Mr. CREIGHTON. Did they state for what?

Mr. JUEN. They didn't say; simply said I had to go along.

Mr. CREIGHTON. By the way, who was the marshal?

Mr. JUEN. E. G. Hitchcock, now deceased.

Mr. CREIGHTON. What happened at the station?

Mr. JUEN. I asked to see the marshal. He said it was not necessary, I could just empty my pockets.

Mr. CREIGHTON. What did they do with you?

Mr. JUEN. Went down below and put me in a cell.

Mr. CREIGHTON. How long did they confine you in that cell?

Mr. JUEN. All night and the following day, and then they marched me along with about 16 others out to Oahu prison.

Mr. CREIGHTON. And placed you in confinement there?

Mr. JUEN. In confinement; yes.

Mr. CREIGHTON. Describe the confinement.

Mr. JUAN. Two were placed in a cell. The size of the cell was about 7½ by 5½, I should say. We didn't get only two and one-half hours out of the twenty-four out of that cell for recreation in the yard.

Mr. CREIGHTON. Later on was it increased to any appreciable extent?

Mr. JUAN. I think about three hours.

Mr. CREIGHTON. All told?

Mr. JUAN. Yes.

Mr. CREIGHTON. Two of you confined in a cell?

Mr. JUAN. Yes.

Mr. CREIGHTON. How long were you confined?

Mr. JUAN. Forty-three days in that prison.

Mr. CREIGHTON. During that time were there any charges made against you?

Mr. JUAN. There were none that I ever heard of.

Mr. CREIGHTON. No charge stated to you? Were you brought before any tribunal?

Mr. JUAN. Never was.

Mr. CREIGHTON. How did you get out of prison?

Mr. JUAN. They sent, the government officials sent, different parties there with this understanding, that if we remained there we would perhaps not receive a trial for six months or a year; that if we wished to take advantage of the opportunity to sign a document and get out of that prison and leave the country we could do so. I believe a good many availed themselves of the opportunity, thinking there was no chance for a trial, and if there were it would be a long drawn out affair and weary.

Mr. CREIGHTON. Just mention the names.

Mr. JUAN. Mr. Creighton, A. P. Peterson, ex-attorney-general, and Harry A. Juen took advantage of that. It seemed to me the best thing to do. The chances were I would not receive a trial for months and I thought I would better go.

Senator MITCHELL. Try them, what for?

Mr. JUAN. I do not know.

Mr. CREIGHTON. No charge had ever been made at that time? You went to San Francisco?

Mr. JUAN. Yes, sir.

Senator BURTON. What document did you sign?

Mr. JUAN. There was no copy. I asked them and they said there was no copy for me.

Senator BURTON. Did you read it over?

Mr. JUAN. I read it over. It said I was then being held in custody of the marshal of the republic for being in complicity with the revolution; something of that kind. I forget now most of it; also that I would agree to leave the land, never to return without permission of the minister of foreign affairs.

Senator BURTON. Well, had you been in any revolution or conspired with anyone against the government?

Mr. JUAN. I had not.

Senator FOSTER. When did this happen?

Mr. JUAN. 1895.

Senator MITCHELL. What business had you been engaged in for some time before?

Mr. JUAN. At that time I was the proprietor of a pool and billiard hall.

Mr. CREIGHTON. This was your home, was it not?

Mr. JUEN. It was.

Mr. CREIGHTON. How long were you away from here?

Mr. JUEN. About six months.

Mr. CREIGHTON. During that time was your family in Honolulu?

Mr. JUEN. Yes.

Mr. CREIGHTON. And your property?

Mr. JUEN. Yes.

Mr. CREIGHTON. And your home?

Mr. JUEN. Yes.

Senator FOSTER. Did they give you permission to come back?

Mr. JUEN. I was informed by the Hawaiian consul at San Francisco orally that I could return home at any time; some time in July, I believe, of that same year.

Mr. CREIGHTON. And you availed yourself of that and returned?

Mr. JUEN. Yes.

Mr. CREIGHTON. You have presented a claim to the State Department, Attorney-General?

Mr. JUEN. I did, in Washington.

Mr. CREIGHTON. A claim has been filed, answer made and returned, now in the State Department in Washington, is there not?

Mr. JUEN. Yes.

Senator FOSTER. What condition is that claim now in?

Mr. JUEN. Well, it lies in abeyance.

Senator BURTON. Who is the claim against?

Mr. JUEN. It was then against the Hawaiian republic.

Senator BURTON. Why did you file it at Washington against the Hawaiian republic?

Mr. JUEN. For the reason that I could not file it against anyone else.

Mr. CREIGHTON. You are an American citizen, are you not?

Mr. JUEN. Yes, sir.

Mr. CREIGHTON. I was your attorney with Mr. Paul Neumann?

Mr. JUEN. Yes.

Senator MITCHELL. Was the republic still in existence when you filed this claim?

Mr. JUEN. Yes.

Senator MITCHELL. Did you make any offer?

Mr. JUEN. There was no chance.

Senator MITCHELL. Did you make any offer?

Mr. JUEN. There was no chance, even to make an offer.

Senator MITCHELL. Well.

Mr. JUEN. They passed, I believe, then what was called the advisory council, passed laws and rules immediately after the exiling of us, that there could be no claim presented against any of its officers.

Senator MITCHELL. You never tendered a claim; never went to any officer?

Mr. JUEN. Never did.

Senator MITCHELL. The reason you did not was because of these rules they had adopted?

Mr. JUEN. That was the reason.

Senator MITCHELL. Then you filed your claim at Washington while the republic was still in existence?

Mr. JUEN. Yes.

Senator MITCHELL. What action did the State Department take, if any?

Mr. JUEN. Several—a number of letters were received by different individual claimants.

Senator MITCHELL. Was there any claim made by the United States Government on the republic of Hawaii here?

Mr. JUEN. I believe they made a demand for one of these claimants now in this memorial for \$25,000.

Senator MITCHELL. Well, how do you regard it; you understand now that you have a claim against the United States for that?

Mr. JUEN. I should think it would be against the United States, naturally, they having assumed the liabilities of the republic.

CHARLES CREIGHTON, SWORN.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. CREIGHTON. My age is 37; residence in Honolulu, and occupation, attorney at law. I was connected with the attorney-general's department continuously from the early part of 1889 until the end of 1892, holding the offices of deputy marshal and prosecutor in the district court and deputy attorney-general for three and one-half years and attorney-general for a brief period under the monarchy under Queen Liliuokalani. At the time of what we call the overthrow, in 1893, I was out of office. At the time of the provisional government I refused to sign any oath to the provisional government, and after the formation of the republic I also declined to swear any allegiance to the republic. I have never done so to the present day. In 1895 I was temporarily living down at Pearl Harbor, and I came up into town on Saturday afternoon and went up to my house, where I was living on the Planes. On Sunday morning on coming in I found the town was crowded with men under arms. I came in town and found I could not go down to Pearl City and went back to my town home.

Senator MITCHELL. What date?

Mr. CREIGHTON. 1895.

Senator MITCHELL. What month?

Mr. CREIGHTON. January 6 and 7. Monday, the 7th, 1895, I came into town and heard that my partner and particular chum, Mr. Peterson, who was attorney-general at the time of the overthrow, was arrested in the afternoon of Monday, the 7th, and taken into custody. I, thinking at the time that arrest might not mean long detention, made myself scarce as I could, and did not go into the populous portions of the town; but in the Palolo district, at 9 o'clock at night, an armed force consisting of three hackloads came out and arrested me. I was taken to the station house and locked up in a cell—there were four of us in the cell—and then marched over to Oahu prison next morning about 7 o'clock, and compelled to stand barefooted and be sworn at in the yard of the prison and locked up until late in the afternoon, and then taken to another cell, which, by actual measurement, measured 7 by 5, with an iron door, a small space in the iron door not more than 8 inches high, and three thick bars and a small vent hole at the back going through a wall 2 feet thick. It was open on the outside, but on the inside it was filled with earth and dirt. I knew the size of the cell; having been connected with the attorney-general's department and seen the plans, I knew the size and condition of the cell. I was confined there for about six weeks, when I signed a paper saying I

would leave the country, because I could not get a trial. During the time I was in there Mr. Willis, the American minister, consulted with Mr. Peterson and myself—we were partners in business—as to matters connected with law points arising. On several occasions both myself and Mr. Juen, as well as Captain Ross and some others, made a demand that as American citizens we had a right to know why we were incarcerated in prison without warrant being made, and without any charge being entered against us and without being tried.

Senator MITCHELL. You were an American citizen?

Mr. CREIGHTON. I was; and have been ever since I was of age. I demanded that some specification of charges or something be made; that I have a trial. Mr. Willis told me he would endeavor to do it. After several other interviews, Mr. Willis told me—told Mr. Peterson and myself—that he had requested that charges be made, and that they had refused to make any charges, and that we could not get a hearing before a tribunal, and if we did whatever the evidence was we were sure to be convicted.

Senator MITCHELL. This was Mr. A. S. Willis, the American consul?

Mr. CREIGHTON. Yes. He told me that a trial before the commission would result only in conviction with or without evidence; so I concluded after six weeks of it I would much prefer to take a trip to the coast. My father's family lived there. I did not receive permission to return; I received verbal notice. This is my home and has been since 1886. I advised Mr. Juen and others to return. In the prison we were allowed to have no newspapers in the place; nothing in the way of reading matter but a few novels occasionally. We were prevented from having newspapers. The Honolulu papers were kept away from us. I arranged to see them. We were allowed after a while—after about two weeks we were allowed to have our food sent in to us, and Mr. La Cross, the proprietor of the hotel, sent in food for four of us. There were stuffed chickens, and in these clippings from the morning papers, which we got and read and kept pretty well posted as to the events in town. The town was practically under martial law, under the direction of the attorney-general, Mr. W. O. Smith, and Mr. Hitchcock, the marshal, and of course I was not present, but to the best of my information, which I got from the papers and from information since then and from records that I have seen, the civil courts, in what is now called the judiciary building, were in progress, and the district court of Honolulu was running in its ordinary way, while the court-martial was being held in the legislative chamber, formerly the old throne room of the executive building, during all the time the court-martial was in session. There was no actual martial law.

Senator MITCHELL. Well, if there were no charges filed against you, what is your understanding of the reason for your incarceration—I mean the claim upon the part of the government?

Mr. CREIGHTON. Alleged complicity in the conspiracy of 1895, of which I knew absolutely nothing, had no knowledge that such a revolution was in progress, and did not know it until after the very unfortunate shooting of Mr. Carter at Waikiki on Sunday, the 6th.

Senator MITCHELL. Have you any means of knowing upon what evidence the government proceeded against you?

Mr. CREIGHTON. Only the general principle that I was what they called a Royalist and refused to follow the Dole administration, and I

was one who did not hesitate to say what my political feeling was at the proper places and times. They had no evidence, so I gathered from what Mr. Willis told me; couldn't specify it, I know.

Senator MITCHELL. Had you in any way shown hostility to the Republic?

Mr. CREIGHTON. No; not active hostility in any way except feelings and opinions which were decidedly hostile. No overt act.

Senator MITCHELL. Have you a claim?

Mr. CREIGHTON. I have not.

Senator MITCHELL. You did not file a claim?

Mr. CREIGHTON. I did not, because the advisory council passed a blanket ballot that removed all obligations from any person connected with it, or I should certainly have instituted proceedings civilly in our courts.

Senator BURTON. This paper you filed, was it an acknowledgment of your guilt?

Mr. CREIGHTON. It was not; I put in my own handwriting the word "alleged." I wanted a copy, but I was not allowed to make a copy. It was, practically, that I was in custody, that trial would not be immediate, and that I would leave the country.

Senator BURTON. Charged with what?

Mr. CREIGHTON. Didn't specify any charge. They had already refused Mr. Willis to prefer a charge against me. I was confined for six weeks, and nine months in exile at the coast. All of this is mentioned in Mr. Juen's memorial. There were many others that were in custody at the same time that we were.

Senator BURTON. Did you file the claims of these parties with the United States Government before annexation?

Mr. CREIGHTON. Yes; they were filed in a majority of instances. I want to say that a majority of the originals were filed by Mr. Paul Neumann when I was on the coast. I was advised of his actions, and I prepared and filed same.

Senator MITCHELL. Did the State Department forward claims to Mr. Willis?

Mr. CREIGHTON. Yes; a large number of those claims, and I saw the answer which the provisional government or the Republic made to the charges contained in the complaints. There was an answer to the State Department.

Senator MITCHELL. Is that public property?

Mr. CREIGHTON. Yes; in the State Department, together with our rejoinder.

Senator MITCHELL. Have you seen the answer?

Mr. CREIGHTON. I have seen the answer.

Senator MITCHELL. What was the substance of it?

Mr. CREIGHTON. Practically a general denial of our claims. It is a matter of record.

Senator BURTON. In these claims filed at Washington for your claims for these alleged illegal arrests, as you mentioned, have you filed evidence in support of the claim?

Mr. CREIGHTON. The only evidence that we filed were the affidavits, the sworn statements of the men themselves. I was charged, I presume, with being a conspirator against the Republic of Hawaii. We had no evidence and knew no charge. We filed no evidence except

the statement of each individual. That is the basis of the claim; sworn statements, of course.

Senator BURTON. Do you know whether any evidence has been filed against your claim?

Mr. CREIGHTON. Nothing, except the return of the provisional government. No evidence of any nature.

Senator BURTON. Why didn't you press this matter at the time of annexation?

Mr. CREIGHTON. The matter at the time of annexation was pressed by Mr. Neumann, but the Hawaiian commission, on which were Mr. Frear and Mr. Dole, were naturally opposed to any of these claims.

Senator MITCHELL. Anything else?

Mr. CREIGHTON. With regard to the question of the number of judges and the supreme court: I have been in active practice here, as I stated, in connection with the attorney-general's department, for a number of years. It seems to me that the question of the three judges—at the time I first came to this country and was connected with the department we had supreme judges, who held circuit courts not only in Honolulu, on what we call term cases at which jury cases are heard, one of the supreme judges presided at all the terms held either at Honolulu or on outside islands. On every circuit the judge of the supreme court left Honolulu and presided at one of these circuits—at one or the other. As deputy attorney-general I have traveled around the islands with the judges for three or four years. The circuit of Hawaii held three sessions a year, the island of Kauai two, and the island of Maui two. At each one of these terms of the different circuit courts one of the supreme court judges presided. Outside of the island of Oahu there were circuit judges, but those judges had only chamber jurisdiction. They had no jurisdiction to impanel juries or decide matters of law or criminal matters that would come before the proper term of court. It was the same way with equity matters. They were brought almost entirely in Honolulu, and the bulk of the civil business was brought before the supreme court. We had no circuit court. Of course the grand jury has taken up some of the time now. In the old days we had no grand juries, but we had the same system of appeal. A man being committed in a district court was brought before the next term of the supreme court in Oahu, or the circuit in which the district magistrate resided. Then when a term was called the attorney-general signed the indictment. It was quite similar to the form in California, where I was admitted. The action went on on that indictment. Now the grand jury takes up a great portion of the term. It seems to me that in Honolulu it is necessary that there should be three judges, and I should think it would be very inadvisable if the jurisdiction of one of them was curtailed to probate matters, because if a judge was limited to probate matters alone, his jurisdiction in case of the absence or sickness of both or either of the other judges, as happens very frequently, there would be no one here with the full jurisdiction of the circuit court.

Senator MITCHELL. What do you think of the practice here of filling temporary vacancies on the supreme court? Does that prevail in the circuit court also?

Mr. CREIGHTON. No. It prevails in this way. One of the circuit judges of the island of Hawaii, if there happens to be a new trial of a

case, he having presided at the first trial and a new trial being ordered and remanded to his circuit, would be disqualified and a judge from another circuit would preside over that particular case.

Senator MITCHELL. No such thing as calling in members of the bar?

Mr. CREIGHTON. No.

Senator MITCHELL. You say, in other words, that it takes three judges sitting all the time to discharge the business?

Mr. CREIGHTON. Yes.

Senator MITCHELL. What I want to know is how you have been able to get along before?

Mr. CREIGHTON. The amount of litigation has increased very much.

Senator MITCHELL. I see in the afternoon paper—I do not usually believe the newspaper, but it says this, that Judge Robinson does not find the lawyers as ready as they should be, even though there is all this talk about the congested calendar.

Mr. CREIGHTON. I was not one of the attorneys. I was on hand, but could not get the trial of a case I wanted to have brought up before Judge Robinson.

Senator MITCHELL. But you think if there was three divisions, three judges sitting all the time, they could discharge the business, but two sitting all the time could not?

Mr. CREIGHTON. I don't say they could not; but I say that three could discharge it with greater facility than two, allowing two jury trials at the same time and leave one judge to attend to probate matters and chambers matters.

Senator MITCHELL. How long does it take to attend to probate matters?

Mr. CREIGHTON. Not very long. I don't know. I am not interested in that.

Senator MITCHELL. One judge could attend to the probate matters in thirty days?

Mr. CREIGHTON. Hardly that. As I say, I am not familiar with the number of probate matters. There are always matters in chambers requiring attention of one of the judges.

With regard to the supreme court, the filling of the supreme court vacancies by members of the bar, I think it is a very pernicious idea. It is all right enough, if the law was obligatory, that a circuit judge who was not interested or disqualified must be called first. There are other circuit judges and they are all presumed to be lawyers. Whether they are or not in outside circuits I am not prepared to answer. As happened recently when two judges of the supreme court were away, the remaining justice has a right to select two members of the bar to sit as a supreme court. It is against all ideas of a statutory tribunal. It is a practice that takes away from the members of the bar and from the public generally the respect which they feel for the judgment of a court. If the judges were sworn as judicial officers they carry more respect than members of the bar picked out, it may be, from the political party of the judge who selects them.

I should like to have Captain Ross take the stand.

W. O. SMITH, recalled.

Mr. SMITH. On two or three matters I have obtained information which you desired. First, on the acquisition of land by corporations and a rejoinder on the cost of the production of sugar.

I also have request to make from Mr. John Colburn, who could not be here. He requested me to present the following memorial, signed by a number of prominent and leading Hawaiians in regard to the subject of Chinese here. This paper is signed by Prince David Kawanankoa. He asked me to present it on his behalf.

Senator BURTON. Do you know that all the others signed it?

Mr. SMITH. Yes, I do. It is from the Hawaiian point of view, and it is signed by Hawaiians.

(Senator Mitchell withdrew for the rest of the session and Senator Burton presided.)

CURTIS P. LAUKEA, sworn.

Senator BURTON. State your name, age, residence, and occupation.

Mr. LAUKEA. Age, 47; born at Waimea, Hawaii; occupation, my present occupation is part proprietor and manager of the Haliwea Hotel Company. I am also postmaster and chairman of the road board at Waialua and member of the local school board or school agent.

Senator BURTON. Well, are you Territorial senator also?

Mr. LAUKEA. No; I am not. I have not the honor of serving our country in that distinction.

Senator BURTON. You are a member?

Mr. LAUKEA. I am not.

Senator BURTON. Name the positions you have held.

Mr. LAUKEA. I was secretary of foreign affairs from 1880-1882, and was appointed collector-general of the Kingdom in 1884-1886. I also was appointed to the office of chamberlain to the royal household and private secretary to the King in 1886-1890. I was commissioner of the Crown lands and land agent in 1886 also, and held office until 1896.

Senator BURTON. Did you want to make a statement before the commission?

Mr. LAUKEA. I have a statement which I have prepared giving my views on local conditions.

Senator BURTON. Leave it with the stenographer to be filed as a part of your evidence. Do you want to make any other statement?

Mr. LAUKEA. I wanted to appear before you to make a statement of the political situation.

Senator BURTON. You believe that the people of Hawaii are capable of exercising the elective franchise and electing their own local officers?

Mr. LAUKEA. I do.

Senator BURTON. Same as the Territories of the mainland?

Mr. LAUKEA. I do.

Senator BURTON. You believe that nothing short of that will satisfy the average voter of Hawaii?

Mr. LAUKEA. That is my belief candidly expressed.

Senator FOSTER. Do you find about \$13,000 or \$14,000 paid to Waialua of the \$52,000 collected?

Mr. LAUKEA. That is all we got.

Senator FOSTER. What do you expend that on?

Mr. LAUKEA. More than half on official salaries for the local officials.

Senator FOSTER. What is the data?

Mr. LAUKEA. We have a deputy sheriff, two policemen, and a jailer. We have a district magistrate, and, of course, the pay of teachers in the public school, and the pay of the resident physician. I think the government contributes to the pay of the government physician

well as to the pay of the land agent, which I might state is \$5 a month. The rest is returned to the district in the shape of a road and tax fund, which I have spoken of in my letter; special appropriations made by the legislature for roads and bridges in the district. I might state that the last legislature appropriated, I think, \$20,000 for the district, and we have succeeded, so far, in only getting \$2,100. The rest, of course, we do not expect to get.

Senator FOSTER. What condition are the roads in, there?

Mr. LAUKEA. In very good condition. With money judiciously expended to enable us to keep the present roads in good condition and in fair order we can get on. When we have a rush of water the roads become impassable. There is no fund available for new roads.

Senator FOSTER. What proportion of the taxes are paid by the plantations?

Mr. LAUKEA. I think the plantation pays somewhere in the neighborhood of \$40,000, \$35,000 or \$40,000 out of the \$52,000.

Senator BURTON. I want to ask one question. Do you believe that it is wise to promote Chinese immigration, restricted to agricultural purposes only?

Mr. LAUKEA. I think it is necessary in the interests, in the planting interests, that there should be a certain amount of relief afforded that way, but the Chinese laborers should be required to confine themselves to agricultural labor on the plantations. The reason for the further introduction of Chinese and Japanese is that they do not stay on the plantations. I make the statement that there is to-day in the country sufficient labor—Japanese—to supply the plantations if they could only get them to go there. We have in our district fully a hundred Japanese that are not working on the plantations, but who are engaged in other pursuits, such as fishing, planting taro and vegetables, etc.

Senator BURTON. I was not asking about the Japanese. We can not restrict them.

Mr. LAUKEA. The Chinese are the same way. If they are kept on the plantations and not allowed to go into other lines of business, it is all right. That is where, I understand, the opposition comes from.

Senator BURTON. Then you think a carefully restricted immigration advisable?

Mr. LAUKEA. Yes.

Senator BURTON. You are a Hawaiian by birth, by blood?

Mr. LAUKEA. Yes; I am a native Hawaiian. I have a native mother. They say I have some white blood, but my father is a Hawaiian nevertheless, born here.

Senator BURTON. You speak the language of the native Hawaiians?

Mr. LAUKEA. Yes; and being with them, speaking their language, and in a way maintaining their customs, I think that I speak and voice the sentiment of a great many of the Hawaiian people in respect to their position on politics. It is where the greatest interest is taken, for it affects them directly.

Senator BURTON. One other question. The proceeds of the crown lands at the time of the monarchy, were they considered the private property of the Queen?

Mr. LAUKEA. The revenue was.

Senator BURTON. That is what I say, the proceeds?

Mr. LAUKEA. Yes.

E. S. BOYD, recalled.

Senator BURTON. I hand you, Mr. Boyd, two papers, one purporting to show the total aggregate receipts of your office, and the other the total expenses, expenditures for the last year.

Mr. BOYD. Yes, sir.

Senator BURTON. They are correct, are they?

Mr. BOYD. They are correct.

Senator BURTON. Are you willing to swear to them and to file them and make them a part of your testimony in regard to the public lands?

Mr. BOYD. I am.

Senator BURTON. Now, are there any other expenditures of your office of any kind or character, except as shown by this paper, marked "Statement of expenditures for the year 1902?"

Mr. BOYD. That is paid by my department out of the appropriations made for the commissioner of public lands. That is all.

Senator BURTON. What other expenses do you have?

Mr. BOYD. The survey of public lands is done by a surveyor and is a distinct department from that of the public lands office.

Senator BURTON. Do you know about what that is?

Mr. BOYD. Well, it averages about \$10,000 a year, I think. One column is the appropriation and the other the amount drawn for the year.

Senator BURTON. Well, the appropriation is for two years?

Mr. BOYD. The appropriations are for two years; yes.

Senator FOSTER. But the receipts there are for the year?

Mr. BOYD. One year; yes.

Judge HUMPHREYS. Mr. Boyd, does that statement show the amount you expended on your trip to Washington?

Mr. BOYD. No, sir.

Senator BURTON. Does not include it?

Mr. BOYD. No, sir.

Judge HUMPHREYS. How were your expenses to Washington paid?

Mr. BOYD. Why, to be paid out of the incidentals.

Judge HUMPHREYS. Then this statement does not show the amount spent by you from the incidentals?

Mr. BOYD. No, sir.

Judge HUMPHREYS. How much did you spend on your trip to Washington?

Mr. BOYD. \$1,500.

Judge HUMPHREYS. How long were you there?

Mr. BOYD. Including there and on the way, actually in Washington, four months to the day.

Judge HUMPHREYS. \$1,500?

Mr. BOYD. Not more than that. Out of my private funds?

Judge HUMPHREYS. No; I am speaking of the public funds. How did you expend that \$1,500?

Mr. BOYD. Well, in railroad fare, steamer fare, hotel, cost of living in Washington hotels.

Judge HUMPHREYS. What hotel?

Mr. BOYD. At the Willard.

Judge HUMPHREYS. How much did you pay a day?

Mr. BOYD. About \$4 a day.

Judge HUMPHREYS. You charged that up to incidentals?

Mr. BOYD. Yes.

Judge HUMPHREYS. Do you get your board in Honolulu from the government expenses?

Mr. BOYD. No, sir.

Judge HUMPHREYS. You don't get a hotel bill in Honolulu?

Mr. BOYD. No, sir.

Judge HUMPHREYS. You did on this trip?

Mr. BOYD. I did.

Judge HUMPHREYS. Did you draw your salary right along?

Mr. BOYD. I did; yes, sir. I want to tell you one thing, Mr. Judge Humphreys, that money is not paid by the government yet. I have kept the vouchers until I see what is the opinion of the legislature about it.

Judge HUMPHREYS. Your statement differs from that of the governor.

Mr. BOYD. Yes; I told the governor that it was paid out of the incidental expenses.

Judge HUMPHREYS. Is that the only expense in which you wish to state something?

Mr. BOYD. I think so.

Judge HUMPHREYS. He had your name wrong?

Mr. BOYD. Yes; he had my name wrong.

Senator BURTON. I guess you are the individual, all right. Have you an incidental fund from which you make expenditures for your office?

Mr. BOYD. Yes; the incidentals cover the expenses of the office.

Senator BURTON. I see. Is it mentioned here in this paper?

Mr. BOYD. No, sir.

Senator BURTON. Well, how much have you expended out of the incidental fund?

Mr. BOYD. For that trip to Washington? That trip to Washington is not shown there; it is not paid.

Senator BURTON. I am not so particular about that trip to Washington as I am as to how much is allowed you as an incidental fund.

Mr. BOYD. \$5,250, I think it is.

Senator BURTON. Have you mentioned all other expenditures except that?

Mr. BOYD. All included except that.

Senator BURTON. You have got here \$5,250 appropriated, and traveling expenses \$856.70.

Mr. BOYD. That is local.

Senator BURTON. This covers all the expenses of your office in every way excepting that \$1,500?

Mr. BOYD. Yes. The reason it is not incorporated there it has not been paid.

Judge HUMPHREYS. How many acres in the premises of James G. Spencer, on Nuuanu avenue?

Mr. BOYD. I don't know, because that matter came under the department of public works. I think it is in the neighborhood of 40 or 50 acres. I could not be sure. It might be less and it might be more.

Judge HUMPHREYS. You don't know anything about it?

Mr. BOYD. I have heard that he has to keep the house in repair.

Judge HUMPHREYS. What rental?

Mr. BOYD. I think \$50 a year.

Judge HUMPHREYS. Tenant at will?

Mr. BOYD. I could not possibly say.

Judge HUMPHREYS. Lease sold at public auction?

Mr. BOYD. I don't think it was.

Judge HUMPHREYS. How many rooms in the house?

Mr. BOYD. I have not been there, Judge.

Judge HUMPHREYS. Six or seven?

Mr. BOYD. I could not tell you.

Judge HUMPHREYS. Have you ever been on the premises?

Mr. BOYD. No, sir.

Senator FOSTER. Who occupied the house before Mr. Spencer did?

Mr. BOYD. It belonged to Queen Emma. I don't think anybody lived there.

Judge HUMPHREYS. Vacant?

Mr. BOYD. I think so; yes.

Judge HUMPHREYS. How long?

Mr. BOYD. I could not possibly tell you.

Senator FOSTER. Was there anybody looking after it, taking care of it?

Mr. BOYD. No care was taken of it at all.

Senator FOSTER. Run down to a considerable extent?

Mr. BOYD. Yes.

Senator FOSTER. Supposed to be a spooky house?

Mr. BOYD. That is what they said.

Judge HUMPHREYS. I would like Mr. Boyd to be requested to present a statement in regard to the revenues of the crown lands.

Senator BURTON. Will you have it ready by to-morrow?

Mr. BOYD. Yes.

Colonel PARKER. Will you also prepare a report to the commission in regard to some lands there, Puuanahulu?

Mr. BOYD. Yes.

Colonel PARKER. Do you know how many thousand acres; 75,000 or thereabouts?

Mr. BOYD. I think it is close on to that—60,000, or 70,000, or 80,000 acres.

Colonel PARKER. I would like, Mr. Commissioner, to ask Mr. Boyd to report that also. This tract of land, one piece, is something like 12,000 acres, cut right through the center, and put up at auction here one and a half years ago, two years ago.

Mr. BOYD. That was before my time, Mr. Parker.

Colonel PARKER. But you was in office at that time. That was done in 1896, I think it was.

Senator BURTON. Just show how much land was sold out of the 85,000.

Colonel PARKER. He understands.

Mr. BOYD. It is not sold. It has been leased.

Colonel PARKER. Put up at auction.

Senator BURTON. Do you mean the 85,000 acres?

Colonel PARKER. Eighty-five thousand acres in the piece. The best part sold at auction.

Senator BURTON. Sold?

Mr. BOYD. No; the lease sold.

Colonel PARKER. Why should they take out of that 85,000 acres where I could not bid, because the land was in the center?

Senator BURTON. You must bring a copy of that lease and show by the map what relation that part of it bears to the whole tract.

Mr. BOYD. I would state that is not the only good grazing land.

Colonel PARKER. There is no other piece I want but that, at least right there. There is Koohi, where the lease runs out. I have been trying to get it for the last two years, and I can't get it. I would like to know the reason why you won't put it up.

Mr. BOYD. I think you made application verbally directly to the governor.

Dr. C. B. WOOD, recalled.

Senator BURTON. How many people did you put in quarantine at the time of the breaking out of the bubonic plague and how long did you keep them at the expense of the government?

Dr. WOOD. I don't know the exact number of people who were in quarantine. The quarantine began with the first case of plague—that is, the quarantine began in the district. I am speaking about the district.

Senator BURTON. I am trying to get at the expense of the camps, according to your statement, where you sent individuals that were supposed to be exposed.

Dr. WOOD. The expense began generally when the district was quarantined. It was necessary to employ guards around that district, and a number of the people inside had no means of support except daily employment. I am speaking especially of the Hawaiians and we had to, in a measure, contribute to their support. The citizens did that. It was largely voluntary.

Senator BURTON. Well, about how many people were put in these quarantine camps?

Dr. WOOD. Well, they were taken from that district at different times before the fire of January 20 as fast as quarters were ready for them, and when a case of plague broke out in a building the people in the buildings immediately around it were moved to the quarantine camp. Of course after January 20 all the remaining occupants of Chinatown removed to quarantine camps. I presume in the whole plague epidemic there were 7,500 people in the quarantine, speaking of the outside quarantine instead of the general quarantine around Chinatown. There must have been 7,000 or 7,500 in quarantine at one time or another outside of the district of Chinatown in the camps. Of course, there were some people in Chinatown.

Senator BURTON. How long did you maintain these camps?

Dr. WOOD. The quarantine period decided by the board of health at first was ten days, but owing to some cases which broke out in one of the camps in which there was suspicions anyway that the infection might have occurred at a period longer than ten days before the breaking out of this, and the quarantine period was extended to fifteen days, to make it sure. That does not mean that every person put in quarantine was kept there fifteen days and then released. It means more than that. If a case of plague broke out among any of the people at any quarantine camp then the portion of the camp exposed had to begin a new quarantine from the time of the fresh exposure from this fresh case. So far as we could we kept them in small crowds. The people were not allowed to mix one group with another.

Senator BURTON. Now would you say you kept 7,500 people on an average of twenty days each, or would the average run that high?

Dr. WOOD. Yes, it would certainly run that high; I should say more than that.

Senator BURTON. Twenty-five days?

Dr. WOOD. I can not say exactly the number of days. I will explain to you that it was more than that. You will understand that it was more than that.

Senator BURTON. If you will just give me how many days. Was it two months?

Dr. WOOD. No, sir.

Senator BURTON. Well, was it one month?

Dr. WOOD. In my opinion the time that the whole lot of them, that 7,500 people were in quarantine, I should say that it would average between twenty and thirty days. Some of them were in quarantine much longer than others. It could be got at if I were to sit right down and make a business of it.

Senator BURTON. With regard to the total expenditures, have you vouchers?

Dr. WOOD. Yes, vouchers for everything.

Senator BURTON. Are they on file?

Dr. WOOD. Yes, sir; at the board of health.

Senator BURTON. How much trouble would it be to get at them? Do the vouchers show for what the money was expended in each case?

Dr. WOOD. Yes, sir.

Senator BURTON. How much trouble would it be to get an itemized statement?

Dr. WOOD. I believe it would be a great deal of trouble, because the accounts all went to the auditor's office. I am not connected with the board of health and have not been for a couple of years.

Senator BURTON. There is no reason?

Dr. WOOD. Everything is on file some place. Everything is pretty fairly kept in order. There is no difficulty but the time in getting at the figures.

Senator FOSTER. Can you tell what the buildings cost?

Dr. WOOD. I have no figures down.

Senator FOSTER. How much lumber was used? Can you tell that?

Dr. WOOD. I can't tell you a great deal about that. It was not only the detention camp itself, but a store and a butcher shop was run for it and they had all to be built.

Senator BURTON. Did you think it was necessary to put all those people in camps like that?

Dr. WOOD. If they had been a people that could have been reasoned with, that would have been different, but they would have scattered all over the city and the plague scattered all over the country. That was the necessity of keeping them in quarantine for so long.

Senator BURTON. Do you think there was any extravagant expenditure?

Dr. WOOD. No, sir; I am sure there was not. There was a large force of clerks regularly employed at work and a certain number of regular employees of the board of health—very few regular employees of the board of health, under ordinary circumstances, in ordinary times, and that force had to be increased, for the regular employees

were tremendously overworked day and night. There was a tremendous amount of work.

Senator BURTON. For what?

Dr. WOOD. Well, all kinds of things. The work of the board of health office was enormous—inspecting the circumstances of these people in quarantine. There were guards and there were accounts and there was an enormous business going on in that board of health office during the time of the epidemic.

Senator BURTON. Was there not appointed at that time a finance committee who had the entire control of the expenses of the barracks? Wasn't the whole thing managed through that finance committee?

Dr. WOOD. Yes; I stated that the other day.

Judge HUMPHREYS. Doctor, were the members of this finance committee members of the board of health?

Dr. WOOD. No, sir.

Judge HUMPHREYS. Citizens to whom the board of health delegated the duty of examining these accounts?

Dr. WOOD. Yes.

Judge HUMPHREYS. And they were not officials—not sworn in or bound or circumscribed by any law?

Dr. WOOD. They were appointed by the vote of the board of health. Whether they were sworn or not I can not say.

Judge HUMPHREYS. Is there any law authorizing the board of health to appoint a committee of citizens to inspect the accounts?

Dr. WOOD. I can't answer. You know more about the law than I do.

Judge HUMPHREYS. You acted under it. I am asking you if you had legal authority.

Dr. WOOD. I am not posted. I do not know of any law.

Judge HUMPHREYS. You did it without knowing of any?

Dr. WOOD. We had two, at least, well-informed lawyers, and local questions were left to them.

Judge HUMPHREYS. Do you know how much money was spent on the whole in suppressing the plague?

Dr. WOOD. \$800,000.

Judge HUMPHREYS. Something over that; nearly \$900,000?

Dr. WOOD. I believe so.

Judge HUMPHREYS. How much did it cost—average per head in quarantine?

Dr. WOOD. I can not answer that.

Judge HUMPHREYS. The expense of the detention camps, \$7,500, and an average period of thirty days.

Dr. WOOD. There were expenses outside of that. For example, the maintaining of those people. There were other expenses.

Judge HUMPHREYS. How much salary did you pay to Dr. Hoffmann?

Dr. WOOD. Hoffmann was paid a regular salary of \$200 monthly, and he was paid \$700 a month, all told, during the activity of the epidemic.

Judge HUMPHREYS. Paid extra for post-mortems?

Dr. WOOD. Included everything.

Judge HUMPHREYS. Have you ever paid fees for post-mortems?

Dr. WOOD. Not to my knowledge.

Judge HUMPHREYS. Any other physician paid anything for doing anything?

Dr. WOOD. Oh, yes; \$250 a month.

Judge HUMPHREYS. How many?

Dr. WOOD. Well, four at least. I think the number varied; sometimes more; possibly five at times.

Judge HUMPHREYS. Don't you know that the expenditures of the board of health for medical services and for other purposes was a matter of public scandal, published in the papers, and as an outgrowth of all that talk this board of finance was appointed?

Dr. WOOD. No, sir; I don't.

Judge HUMPHREYS. Any champagne bought?

Dr. WOOD. I believe a little.

Judge HUMPHREYS. How much?

Dr. WOOD. I am not posted.

Judge HUMPHREYS. \$1,000?

Dr. WOOD. No, sir.

Judge HUMPHREYS. Any cigars?

Dr. WOOD. I believe very few; a lot were donated.

Judge HUMPHREYS. You don't know of any bills for cigars?

Dr. WOOD. Well, yes; on cigars.

Judge HUMPHREYS. Champagne used in treatment?

Dr. WOOD. I don't know anything about it. I never bought any champagne. It must have been a small quantity. I never asked.

Judge HUMPHREYS. Do you know how many pairs of blankets?

Dr. WOOD. I don't know. It is all in the record.

Judge HUMPHREYS. You have no personal recollection?

Dr. WOOD. I had nothing to do with the individual expenditures.

Judge HUMPHREYS. Who authorized them?

Dr. WOOD. The purchases of the Kalihi camp were very largely made by Mr. Bolte. There were certain persons—there is a list of them on file—who were authorized to make purchases for the board of health, and it was published in the newspapers, and then these authorized persons, whose names were known, made the purchases.

Judge HUMPHREYS. Do you know the purchase of a pair of blankets at \$12?

Dr. WOOD. Mr. Bolte had that item for Kalihi camp.

Judge HUMPHREYS. Do you know whether or not, during the plague, crockery, bronzes, and things that could be sterilized were destroyed?

Dr. WOOD. None of them destroyed; nothing that could be sterilized was destroyed.

Judge HUMPHREYS. Then claims of persons for the destruction of articles of that kind, in your judgment, are incorrect to that extent?

Dr. WOOD. Yes, sir; I don't know of any crockery or bronzes destroyed. We gave orders very carefully about destroying anything that could be sterilized.

Judge HUMPHREYS. Did you take a man out of these grounds who was a plague suspect?

Dr. WOOD. Yes, sir.

Judge HUMPHREYS. What time of night or day did you take him out?

Dr. WOOD. I don't think it was in the night; I am not sure but what it was. I came here to see him with Dr. Galbraith and Dr. Hoffmann in the night.

Judge HUMPHREYS. How long was he down there in camp?

Dr. WOOD. He was not in camp; he was in the plague hospital.

Judge HUMPHREYS. How long?

Dr. WOOD. He was there—

Judge HUMPHREYS. Was the hotel under quarantine?

Dr. WOOD. A portion of it.

Judge HUMPHREYS. The whole hotel?

Dr. WOOD. Did not.

Judge HUMPHREYS. Wasn't the clerk coming into contact with him?

Dr. WOOD. Not to my knowledge.

Judge HUMPHREYS. You didn't put anybody in the hotel under quarantine?

Dr. WOOD. Not in strict quarantine.

Judge HUMPHREYS. What sort of quarantine?

Dr. WOOD. Well, observation kept over the hotel for some time; I think, for two weeks.

Judge HUMPHREYS. How about the case; did it develop to be plague or not?

Dr. WOOD. It did not develop.

Judge HUMPHREYS. Didn't you say you were satisfied and the board was satisfied you had made no mistake?

Dr. WOOD. I did not. I ask that the record be referred to.

Judge HUMPHREYS. I accept your word.

Senator BURTON. Doctor, can you get the papers, I don't know whether it is proper to ask the president of the board of health or who?

Dr. WOOD. The president of the board of health is Dr. Sloggett. I presume a request to him would get the proper papers.

Mr. LOEBENSTEIN, recalled.

Senator BURTON. You said you wanted to explain about the land office. I asked you about values placed on lands in the governor's report and you wanted to make an explanation as to the value of lands.

Mr. LOEBENSTEIN. In many instances the values were underestimated, more especially the values placed on crown lands. I could, by referring to the governor's report, point specifically to lands that were underestimated in value as an actual matter of fact. The larger number of the crown lands, more especially those that are extremely fertile, have been underestimated in value and the revenue derived from them is considerably below the actual market value of these lands per acre. Compare them to lands contiguous which belong to private individuals, for taxation purposes, assessed all the way from \$80 to \$100 an acre for cane land.

Senator BURTON. You gave some the other day; do you want to give any additional examples?

Mr. LOEBENSTEIN. Yes; for instance, a reference was made to the governor's report. I am referring, of course, to such transactions as have taken place since the operation of the organic act—its going into effect. I am not going back of that. It is not necessary.

Senator BURTON. No, no.

Mr. LOEBENSTEIN. There are quite a number of lands on the different islands, more especially Hawaii, that have been leased within the last two years at very low rentals, considering their adaptability, not alone to cane culture, but lands that are desirable for homesteading. I can specify a number of these lands by name.

Senator BURTON. Well, do so.

Mr. LOEBENSTEIN. Take it in the district of North Kohala, there are a number of lands; Kahei is one. Another one is Pihipau. Another one is Hukiaa, aggregating in all about 1,300 acres, practically all cane land, and they have been rented or have been leased, not much more than three months back, at less than \$1.50 per acre, or about \$1.50 per acre. The larger portion of one of these lands, Kahei, land is for growing cane and the remainder adjacent and only separated by the government road from the homestead district called Kaaunuhu. This also has been leased with the lands that I have mentioned. There is no reason why that land should have been reserved, inasmuch as the government tract that I called Kaaunuhu was set apart for homesteads and nearly every one of these lands taken up a few years ago was a bleak and desolate tract, and is now being rapidly covered with trees and timber. Had due regard to the public interests been manifested by the Territorial authorities, that land should have been leased, if it was deemed desirable to lease it, for not less than \$5 average.

Senator BURTON. Five dollars a year?

Mr. LOEBENSTEIN. Five dollars a year.

Senator BURTON. Do you think as high a price could have been obtained for it?

Mr. LOEBENSTEIN. I believe more could have been obtained. In fact, I don't think it is necessary to lease lands at all. There is a great desire for homesteads in that district. As a matter of fact, the land is owned by corporations. A large number of citizens, Portuguese, in that neighborhood are begging for homesteads. The only part they ever received for a tract of land to homestead was this particular tract, Kaaunuhu, in which nearly every lot is taken up. That is one tract. There are other lands in the district of Kaaki, called Kaa-laala, which in the governor's report is listed as cane land and forest land, leased for \$2,000 per annum.

Senator BURTON. What would have been a fair rental? In other words, in your judgment, what could have been obtained for it?

Mr. LOEBENSTEIN. Taking the same basis of \$5 per acre for two years, and at that elevation it would be no less than \$5.

Senator BURTON. How much of it is cane land?

Mr. LOEBENSTEIN. From 400 to 500 acres is cane land, besides what is now forest land, which, if acquired, would also make good cane land; there are streams and water courses also, and there has been a lease granted for twenty-one years for \$200 per annum.

Senator BURTON. That is not agricultural lands?

Mr. LOEBENSTEIN. Some of it is. The lease distinctly reserves the forest land on this tract included between Kapapala and from there south.

Senator BURTON. What is the acreage?

Mr. LOEBENSTEIN. Practically unknown. It is bounded on one side by lands not surveyed. Also there is another tract in the district of Hilo, entirely within the cane belt, I believe, which contains between 300 and 500 acres and the estimated value placed upon this land in the governor's report is \$5,000. The corporation which owns or occupies the land of which this is a portion, under their present lease, is assessed all the way from \$80 to \$150 per acre for their lands. It is fertile land and capable of the highest development in that particular locality, and would be desirable for homes.

Senator BURTON. What is the acreage there in that last?

Mr. LOEBENSTEIN. I believe 500 acres, I am not quite sure. It is over 300, and I believe it to be 500.

Senator BURTON. What have you got to say about the lands reserved for the forest reservation?

Mr. LOEBENSTEIN. I believe in many instances the discrimination which has been shown in favor of the applicants in reserving certain tracts while other tracts owned by them can be acquired with impunity, with no regard shown by them for the possible destruction of the forest land and the diminution in the rainfall, seems to be practiced here. As a matter of fact there are lands in the district of Hilo, Hamakua, and also the district of Kohala that I have mentioned, where the setting apart of certain lands, either for homesteading there under different conditions and whenever this sort of land seems to be desired by homesteaders there seems to be a disposition manifested toward setting it aside for the conservation of the rainfall. The acquiring the forests in the district of Hilo and Hamakua does not seem to have affected the rainfall very much. On the contrary, in the last two years the rainfall has been greater than in twenty years past.

Senator BURTON. Do you have sufficient rainfall at Hilo?

Mr. LOEBENSTEIN. Well, we have a few inches once in a while. A study of the climatic and local conditions will bring anyone to the conclusion that there is no necessity to increase the rainfall. The forests of Hawaii to-day are greater than they were ten years ago. Puuanahulu, which Mr. Parker mentioned, has been or is to be set aside for forest reservation. There is more forest on that land to-day than there was ten years ago.

The Puuloa sheep station once had no forests. The Macfarlanes are the owners of the sheep station. This Puuanahulu 85,000 acres was applied for as far back as 1898. I was a member of the house of representatives at the time, and the administration was contemplating putting up 12,000 of that tract, reserving the remaining portion as a cattle domain. This would have worked injustice to the neighboring ranches to keep their cattle from crossing onto this particular land, and benefiting only the successful applicant for the lease, and it was only by the threat that the matter would be called up in the house that this particular proposition was withdrawn, and later on the land—12,000 acres of this tract—was put up at public auction and the lease sold, which will expire in 1917.

Senator BURTON. You mean 12,000 acres within the government's land?

Mr. LOEBENSTEIN. That is within this 85,000-acre tract.

Senator BURTON. Who was the lease sold to?

Mr. LOEBENSTEIN. Hind & Low.

Senator BURTON. It was by offering just that land where nobody else could live?

Mr. LOEBENSTEIN. It was understood at the outset that the remainder would also be put up at auction, but the government failed to do so; merely put up the 12,000 acres adjacent to this Puawa ranch of Messrs. Hind & Low, and the remainder was not put up.

Senator BURTON. As I understand you, I don't know whether the question the other day—do you think the public lands ought to be owned and controlled by the Federal Government or not?

Mr. LOEBENSTEIN. You asked me, and furthermore, if you will

remember the explanation made by the public lands bureau in this application for a large tract of land at Olaa, that I claimed was applied for under the provisions of the land act, this statement was denied and the counterstatement denied. Since then I have looked up the statements in the land office and my first statement is correct. The application was ratified by the so-called executive council.

Senator BURTON. So that your original statement made with respect to that matter was correct?

Mr. LOEBENSTEIN. Correct, sir.

Senator BURTON. As you have verified by the records here?

Mr. LOEBENSTEIN. Yes; as I have verified by the records here.

Senator BURTON. Is there anything else you want to speak of?

Mr. LOEBENSTEIN. I have nothing particular to say beyond what I have said.

I would like to add a few words on the so-called homestead act of 1884. It was the first law on our statute books which provided cheap homes for the poorer classes.

Senator BURTON. That is, you want to give the reasons accounting for the failure of the homesteads?

Mr. LOEBENSTEIN. I want to give certain reasons which go toward showing that the homestead act itself was a success.

Senator BURTON. Go ahead.

Mr. LOEBENSTEIN. This act passed in 1884 when we had a large Portuguese population in the country, and it was not put into operation until 1887 when Mr. Thurston became minister of the interior. It was mainly through his active efforts and interest in the matter that the public lands then available were cut up into small holdings, not exceeding 20 acres, and the larger number of them taken up by the most desirable farming element, the Portuguese. Those holdings which they then took have appreciated in value, and those that have stayed on the lands are becoming our most valued citizens. Reasoning from that, an extension of that same principle followed up would stock this country with what it so much needs, a desirable class of farmers, so essential to prosperity. What has been done can be done again. If these little holdings have proven successful, if the population which then settled upon these tracts were able to make their living and bring up their families and carry on the work and improve their homesteads, there is no reason why it can't be done with better success now that we have a better condition established, we have more roads, the means of transportation are better, the government lands are more accessible than they were then. At the time, while not in any sense jeopardizing the sugar interests, if the government lands can be used for this purpose, the sugar interests will have their labor at their very doors. I don't believe the cry of the sugar intesests that it will jeopardize their interests. It has been proven in these homesteads in Hamakua, the labor from these homesteads found an outlet on the plantations just below.

Mr. SMITH. These leases you speak of, first referring to the Hamakua and Hilo districts, were not those leases all put up at auction and bought after due notice?

Mr. LOEBENSTEIN. Yes.

Mr. SMITH. Don't you know every one of these leases has a clause reserving the right of the government to take back any part of the land for homesteading?

Mr. LOEBENSTEIN. Everyone knows, who knows this government, that when the plantations once get hold of land any applications for homesteads would not be received.

Mr. SMITH. Don't you know that these leases always have a clause for the preservation of the forests?

Mr. LOEBENSTEIN. Yes; but it is not done.

Mr. SMITH. Those three points I wish to make. I am not representing the government. Don't you know that those leases were all put up at auction not less than thirty days after the notice?

Mr. LOEBENSTEIN. I do.

Mr. SMITH. And that there is a reservation for taking up small homesteads and small holdings?

Mr. LOEBENSTEIN. Yes.

Mr. SMITH. And the same, a reservation for forest preservation?

Mr. LOEBENSTEIN. Some of these lands have no forests on them.

Senator BURTON. Let me ask you, how do you explain then, that the leases brought only \$1.50 an acre when they are worth \$5 when they were put up at auction?

Mr. LOEBENSTEIN. They are put up under such conditions that nobody could bid except the plantations. Where is there a private individual that can, himself, go on these tracts and develop them? If the lands were put up in small holdings, so that a man could bid and develop them, they would sell.

Senator BURTON. You said, as I understand, that they were not only worth \$5, but that they would bring \$5 rental?

Mr. LOEBENSTEIN. Well, that is true. It is because the authorities here don't seem to perceive that the lands are worth more.

Senator BURTON. But if the lands are put up at public auction why don't parties step forward and bid \$5?

Mr. LOEBENSTEIN. Because the plantations won't grind cane for them.

Senator BURTON. I want to make it clear, the reason, if you can tell us, why these lands put up at public auction bring a lower rental than they are worth. Is it because they are put up in large tracts?

Mr. LOEBENSTEIN. That is one reason. Another reason is that it is useless for any outsider to bid on a piece of land which is lying back or within the plantation limits, because the disappointment on the part of the corporation through not obtaining that land will naturally make them refuse a chance of making anything out of that land in case the man wants to plant it in cane.

Senator FOSTER. Wouldn't that apply the same way if it was cut up in small pieces?

Mr. LOEBENSTEIN. No; a man wouldn't want to plant cane. He would plant small fruits, vegetables. The point of transportation is another point—the fact that these corporations, to a certain extent, control the landings and charge excessive rates. In Honokaa the homesteader can obtain cheaper rates for shipping the supplies he has produced by carrying the goods 35 miles to a landing than they can right at Honokaa Harbor, which is only 2 miles distant.

Mr. SMITH. Don't you know, Mr. Loebenstein, that in many cases when these leases are put up at auction, in addition to that the government requires that there shall be an upset price made by the applicant, insuring a reasonable rate?

Mr. LOEBENSTEIN. But they put it at less than it ought to be. I know it is done. In the first place the government should not set such a low upset price. They should look at the land immediately adjacent. An upset figure of \$5 to \$8 per acre is often set on land when the land adjacent is assessed at \$100.

Mr. SMITH. Don't you know that the tracts of land would otherwise remain idle, and that it is to the interest of the government to get an income from them. They are advertised for thirty days.

Mr. LOEBENSTEIN. I differ from you. These advertisements are very seldom found in outside newspapers. On the island of Hawaii where these lands are situated we are very often ignorant that these lands have been disposed of until they are sold. You don't give the public fair notice of what is going on until the whole thing has been done.

Mr. SMITH. Are not these advertisements put in the Hilo papers?

Mr. LOEBENSTEIN. Some are and some not.

Mr. SMITH. Most of them, I think; I thought it was the universal practice.

Mr. LOEBENSTEIN. It is not the universal practice. You can look up the record yourself.

Colonel PARKER. Now, in regard to those lands you say, Mr. Smith, you say, take, for instance, from Waipio to Lapahoehoe, a distance of 30 miles, there are seven plantations. The government has a piece of land—we will call it the Pacific Sugar Mill. They want a piece of land right in the vicinity. They make application to the government. You might as well let them have it without auction when you put up a tract of 500 acres. Nobody is going to run it up. I could give a lot of instances. There was 33 acres of land I sold three years ago for \$35,000. I got two plantations running against each other. The Wailuku Sugar Company and Spreckelsville. One offered \$15,000 and the other \$20,000, and I went back and forth and finally got \$35,000, which I took. That is one instance only.

Senator BURTON. Is that one instance of an individual beating the sugar company?

Colonel PARKER. I don't know. If the government would let the people and plantations run the leases up they could get more. But you can't get outsiders to bid on tracts of 300 and 400 acres.

Mr. LOEBENSTEIN. I would like to ask Mr. Parker a question. I would like to ask him whether he knows of any ordinary individual outside of one connected with the sugar plantations or with ranches that would bid any 12,000 acre tract?

Colonel PARKER. Well, it is pretty hard for any individual to do it. Adjourned until 9 o'clock to-morrow morning.

Mr. A. HERBERT, recalled.

Examined by Mr. DE KNIGHT:

Mr. DE KNIGHT. I believe you have resided in these islands for thirty years or more?

Mr. HERBERT. Yes, sir; and for a number of years I held the position of commissioner of agriculture and forestry under the monarchy.

I also held the same position under the republic. After annexation it became a salaried office, which I could not have accepted had it been offered me, because of my time of life, I now being 72 years of age. I am now retired from active business; my income is derived from my interest in sugar plantations in these islands.

Mr. DE KNIGHT. Are you well acquainted with land values in these islands?

Mr. HERBERT. Yes. From my former connection with the bureau of agriculture and my enthusiastic delight in forestry, and by reason of my having had opportunities to examine into our public lands, and I may be permitted to say that I know something about their value, extent, and adaptability.

Mr. DE KNIGHT. State your opinion of Commissioner Boyd's ability to give an accurate estimate of land values.

Mr. HERBERT. To my knowledge he has had little or no experience in land matters. He is a young man, and, until recently appointed land commissioner, held a subordinate position in the land office. Not being an agriculturist or planter he can not be considered a land expert.

Mr. DE KNIGHT. In the statement furnished by Land Commissioner Boyd to the committee this morning he gives, as his estimate, the value of the crown lands at \$2,000,000. What is your opinion of that estimate?

Mr. HERBERT. It is too ridiculous to be entertained. I will point out four plantations, composed partly of crown lands, in which the crown lands are worth more than that amount.

The plantation known as Waiakea, containing an area of 95,000 acres of crown land, annual rental \$2,000, contains 5,000 acres of rich land, for which I have been told the present lessee has offered \$750,000, leaving 90,000 acres well suited for rubber, cocoanut, sisal fibers, coffee, and a hundred varieties of growths. One-half, or 45,000 acres, should certainly be worth \$25 per acre, and the remaining 45,000 should bring 10 cents an acre. This would, I think, make a total valuation of the crown lands in this plantation of not less than \$2,000,000.

The crown lands known as Kapua and Anahola, on the island of Kauai, containing an area of 13,475 acres, annual rental \$600; lease expires in 1907, or five years from now. This land has an abundant supply of natural water from streams and springs. It is, without exception, the richest and most valuable sugar land that we have in the islands, and the value should not be less than \$1,000,000.

The crown lands known as Waimea, Kauai, contain an area of 92,462 acres, annual rental \$4,000. Two thousand acres, more or less, are in cane. Thousands of acres of this land are well suited for tropical forest, such as rubber, vanilla, valuable fibers, hard woods, and so forth. I should estimate these lands as worth \$1,000,000.

There are 500 acres of crown land in Honolulu, known as auwai-olimu, and comprising valuable town lots. I think a quarter of a million of dollars would be a reasonable estimate of their value.

The crown lands, comprising a cattle ranch known as Waimea, in the island of Hawaii, the lease of which expires in 1913, are probably as valuable as any of the sugar estates heretofore mentioned, because they can be utilized for diversified agriculture. Approximately they are worth, for ranching purposes only, at least \$250,000. Two thou-

and acres of this tract were set out as homesteads as far back as 1893, and they are to-day selling at \$50 an acre.

The instances cited are only part of the 970,000 acres of crown lands, many acres of which are equally as valuable.

Mr. DE KNIGHT. How do you account for the low rents that are now received from the crown lands, in view of their value?

Mr. HERBERT. The leases were made in the early days, when the land was comparatively valueless. Most of the land was then used for a pasture, and the cattle were killed for their hide and tallow.

Mr. DE KNIGHT. When these leases expire, do you believe future leases will bring higher rentals?

Mr. HERBERT. Yes. I will give you an example. The Dowsett estate had a tract of crown land, known as Lualualei, under lease for fifty years, at \$300 per annum. The lease expired in August last. The Waianae Sugar Company leased 1,000 acres thereof at \$9,000 per annum.

Mr. DE KNIGHT. You have traveled extensively over the different islands of the group?

Mr. HERBERT. I have.

Mr. DE KNIGHT. Then the opinion which you now give is based upon personal observation and study?

Mr. HERBERT. It is.

Mr. DE KNIGHT. It is not hearsay on your part?

Mr. HERBERT. It is not, except the offer of \$75,000 for a part of the 95,000 acres at Waiakea, Hilo.

Mr. DE KNIGHT. What, in your opinion, is the total value of the crown lands; that is, if they were offered for sale to-day, subject to the leases, what, in your opinion, would they bring?

Mr. HERBERT. In my opinion, and I speak conservatively, the crown lands, if offered for sale to-day, subject to the leases, would bring from \$20,000,000 to \$25,000,000. I believe this to be a very low estimate.

A. B. LOBENSTEIN recalled.

Examined by Mr. DE KNIGHT:

Mr. DE KNIGHT. Mr. Lobenstein, what is your business?

Mr. LOBENSTEIN. Civil engineer and surveyor.

Mr. DE KNIGHT. How long have you been engaged in the practice of your profession?

Mr. LOBENSTEIN. For a period of over twenty-four years, both as private as well as government surveyor.

Mr. DE KNIGHT. As such, you are familiar with the lands on the different islands of the group?

Mr. LOBENSTEIN. I am.

Mr. DE KNIGHT. Does this knowledge include what are familiarly known as the crown lands?

Mr. LOBENSTEIN. Yes.

Mr. DE KNIGHT. Is your knowledge based on facts other than in your capacity as surveyor?

Mr. LOBENSTEIN. I also held the position of agent or commissioner of public lands during the monarchy, and under the provisional government and as such made reports on the status of the different lands, notably their availability for agricultural or settlement purposes, likewise the appraising of values.

Mr. DE KNIGHT. Have you had occasion to make any estimate of crown land values?

Mr. LOBENSTEIN. I have.

Mr. DE KNIGHT. What valuation have you placed upon the crown lands as a whole; give what you would consider a conservative estimate of present values?

Mr. LOBENSTEIN. I should say, that in my opinion, they are worth at least \$20,000,000.

Mr. DE KNIGHT. How do you reconcile this statement with the one made by Mr. Boyd, land commissioner, wherein he estimated the total value of the crown lands at \$2,000,000?

Mr. LOBENSTEIN. Mr. Boyd's statement can only be explained by reason of his unfamiliarity with the facts, having no previous acquaintance with land matters, except in a subordinate capacity, and his lack of knowledge with localities and conditions.

Mr. DE KNIGHT. Then you regard this estimate of his as misleading and incorrect, rising probably out of inexperience and unfamiliarity with the subject?

Mr. LOBENSTEIN. I do, knowing him to be inexperienced and but newly inducted in his office—question his ability to speak intelligently as to the condition or fertility of the crown lands, or their value.

Mr. DE KNIGHT. Can you give any instances where an undervaluation has been placed on these crown lands?

Mr. LOBENSTEIN. Yes; in fact, the undervaluation has been general, not only in the statement furnished by the land commissioner, but the one contained in the governor's report of 1901.

Mr. DE KNIGHT. Just cite a few instances.

Mr. LOBENSTEIN. For a case in point, there is the land of Olaa, in the district of Puna, on the island of Hawaii, containing a total area of 54,000 acres, nearly all of it of exceeding fertility. Its value in the governor's report is given at \$127,000. Of the 54,000 acres, more than 16,000 acres are now owned by the Olaa Sugar Company, purchased by them at an average of \$125 per acre, or about \$2,000,000, the original appraisements, made by the Territorial authorities themselves, aggregating over \$500,000; and figuring the remainder of the 54,000 acres on the arbitrary basis per acre fixed by the Territorial authorities, say \$12 per acre, this one land of Olaa alone should be worth not less than \$2,500,000, a figure it could easily fetch if put up at public auction.

Another instance of undervaluation applies to the land of Waiakea, lying in the Hilo district of the island of Hawaii, containing in all an area of 95,000 acres, leased to the Waiakea Mill Company, a sugar corporation at \$2,000 annual rental, the lease expiring about 1916, this being one of the lands tied up for a long term under lease made under the monarchy, sometime in 1883 I believe. Of the total area about 5,000 acres are now cultivated, while the larger portion of the important seaport town of Hilo, is also contained within the boundaries of this lease. The lessees have frequently made the offer to purchase this 5,000 acres from the local authorities, and I am in a position to state that they would be willing to give at least \$750,000 besides surrendering up the balance of the 95,000 acres. Of this about 2,000 acres form valuable town property and harbor frontages, worth no less than \$1,000,000 being absolutely essential to the growth of the

town of Hilo, so that for 7,000 acres of this tract the valuation of \$2,000,000 would appear a reasonable estimate.

Question by WITNESS. Do you wish me to cite some more instances?

Mr. DE KNIGHT. Go on.

WITNESS (continuing). Adjacent to Waiakea lies the land of Pona-hawai containing about 1,800 acres, which was subdivided by me into homesteads in 1895, which could not be purchased to-day, including the good, bad, and indifferent for less than \$500 per acre at an average, going toward the north from Hilo, the next land is Piihouna of 57,000 acres, valued by the commissioner and the governor's report at \$75,000. The area now in growing cane on this land amounts to more than 700 acres, representing itself \$100,000 in value, with more than 2,000 acres of equal value with water rights, among the most unfailing in supply and worth easily \$500,000 and a remainder of 50,000 acres capable of sustaining the highest agricultural development. This is another one of the old leases expiring in 1921, the annual rental being \$400, with restrictions, however, as to forest cleaning, also reserving the water rights, which the local government permits to private corporations without exacting any rent or other assessment.

The other crown lands in the district of Hilo are those of Hekalaniki of 570 acres, Manowaiapae, 180 acres, and Huumuule of 100,000 acres, the two former being all rich cane land with valuable water rights, the government valuation being \$30,000, which should have been at least \$150,000. The land of Huumuule, valued at \$80,000, has 640 acres of growing cane, worth \$200 per acre; the remainder is among the richest grazing lands on these islands. I should consider \$350,000 as a conservative estimate.

The same conditions hold good in the other districts and islands. I will cite merely the case of one or two like those of Lualialei and Waianae on Oahu, given in the estimate at \$130,000, for which the lessees would cheerfully pay \$1,000,000; of Waimanola, in the district of Koolau in Oahu, worth \$5,000,000, the estimate being \$100,000; the tract known as Auwaiolimu, within the city of Honolulu, omitted in the report, worth another \$500,000; crown lands on the island of Kauai, like Waimea, of 92,000 acres, estimated at \$200,000, which, with its cane acreage and water rights, is worth nearer \$2,000,000; and the same rule holds good with the lands of Kapaa, Anahola, Wailua Kai, and Uka, of such fertility that the lessees obtain enormous dividends.

Mr. DE KNIGHT. Could you not submit a supplementary statement embodying all the facts you have just testified to, treating all the crown lands, categorically giving their names, area, location, conditions, and value, with such other information as you may find necessary?

Mr. LOBENSTEIN. Yes; I shall be pleased to do so, but have not all the necessary records with me.

Mr. DE KNIGHT. Will you file it later on?

Mr. LOBENSTEIN. Yes.

Mr. DE KNIGHT. Have you any knowledge of any leases of crown lands executed since the going into effect of the organic act, or of sales?

Mr. LOBENSTEIN. Yes; and will include this information in my supplementary statement.

Mr. DE KNIGHT. Do the tracts of land leased cover merely agricultural property?

Mr. LOBENSTEIN. No; they include valuable city and town parcels outside of those mentioned.

Mr. DE KNIGHT. Explain the reason for the low rental received from crown lands.

Mr. LOBENSTEIN. The greater number of the crown lands were leased for long periods of from twenty to fifty years before the increase in population, and the general development that has since been reached has rendered them valuable. In some instances these leases were allotted by the sovereign, more as a mark of favor or reward for services rendered than from regard for their actual value. The commissioner of crown lands, established by the act of 1865, merely followed out the instructions of the reigning monarch, acting merely in an executive, not in an advisory, capacity. These leases are rapidly expiring.

Mr. DE KNIGHT. When, in your opinion, will most of these leases expire?

Mr. LOBENSTEIN. With the exception of 10 or 12 leases, the remainder will expire within ten years.

Mr. DE KNIGHT. Should these leases be renewed, do you believe a higher rental could be derived?

Mr. LOBENSTEIN. Most certainly.

Mr. DE KNIGHT. State what income you believe could be derived from the agricultural lands?

Mr. LOBENSTEIN. Basing my statement on what I know to be the rental values now derived from the leasing of agricultural tracts, whether private or government lands, at figures varying from \$5 to \$10 per acre, I believe an income of \$300,000 should be obtained from the leasing of cane lands alone, and of no less than \$150,000 from the grazing or pastoral lands, besides another \$100,000 per annum from the appurtenant water rights.

Mr. DE KNIGHT. The statements you have made are the results of your familiarity with the different localities and lands, acquired by intimate personal knowledge gained in the practice of your profession as a surveyor, and your experience in land matters generally on these islands as a government land agent and expert?

Mr. LOBENSTEIN. Yes.

Mr. DE KNIGHT. Thank you, and you will not fail to file your supplementary statement.

Mr. LOBENSTEIN. No, sir.

THURSDAY, *September 25, 1902.*

MORNING SESSION.

Judge WILLIAM JOSEPH ROBINSON, sworn.

Judge ROBINSON. Age, 34 years. I was born the 9th of March, 1868, in the city of Cleveland, county of Cuyahoga, State of Ohio. I am at present the third judge of the first circuit, Territory of Hawaii.

Senator MITCHELL. How long have you been judge of that court?

Judge ROBINSON. I was named by the President of the United States

on the 15th of December last, and the name was confirmed by the Senate of the United States on the 18th of January. I received my commission on the 15th of February and took the oath of office on the 17th of February. Since that day I have been actually in discharge of my duties as judge.

Senator MITCHELL. Where were you residing when appointed?

Judge ROBINSON. Here in Honolulu.

Senator MITCHELL. How long?

Judge ROBINSON. I had been residing here at the time of my appointment about twenty months, I think.

Senator MITCHELL. Engaged in the practice of law?

Judge ROBINSON. Engaged in the practice of law. Prior to coming to the Territory I had been twenty-five years in the State of California, and my last residence was in Alameda County, and I had been a resident of that county for twenty years and had practiced my profession in the county and city of Alameda for eleven years prior to coming here.

Senator MITCHELL. Have you a knowledge of the amount of business done in the court?

Judge ROBINSON. I have the knowledge which seven months' experience on the bench would give me. I have hesitated about coming before the commission because of the fact that some statements have been made as to the unnecessary character of the creation of the office of the third judge, and as I would be the one most affected by any abolition of that office, I have hesitated to express my views, because I might in some measure be biased in my views and in my opinions. I would like to state, however, in connection with the matter, that the first circuit constitutes the island of Oahu and includes the city of Honolulu, which is a great commercial and business center of the Territory of Hawaii. All of the large business interests are represented here, and most, in fact I might say all, the large plantations are controlled by corporations who have their offices and principal places of business here in Honolulu. The population of the first circuit is about 65,000 people. That is merely an estimate. We have no very recent census. It is an estimate made from what is called the Hawaiian Annual, which is published annually by Mr. T. G. Thrum, who is registrar of conveyances of the Territory of Hawaii.

Now, owing to the facts which I have already stated, the fact that this most populous island is in this circuit, and about 65 per cent of the business is transacted here, nisi prius courts of this island are courts of general jurisdiction, original jurisdiction transacted by the first circuit court. The volume of business since the organic act went into effect, on the 14th day of June, 1900, has been considerably increased by reason of the provisions of the organic act. In the organic act any person who has been convicted of a crime the punishment for which prescribed by law is imprisonment, either with or without hard labor, for a period of time in excess of one year or by fine in excess of \$100, is disfranchised. And under the fifth amendment to the Constitution of the United States no person shall be convicted for a capital or otherwise infamous offense, except upon presentment of an indictment by a grand jury. Under the Hawaiian laws, continued in force by the organic act, petty larceny, usually designated in other States as larceny in the second degree, a minor offense, being the theft of articles of value of a trifling nature, is punishable by imprisonment for a

period of time not to exceed two years. This renders the theft of any articles, no matter how trifling, provided they possess any value at all, an infamous crime, and such is triable only upon indictment by a grand jury. For this reason the term of the calendars in the circuit court are crowded with petty cases. For instance, during the May term, at which term I presided, I had before me the arraignment of a person charged with the theft of 50 cents' worth of coal from the Oceanic Steamship Company, W. G. Irwin & Co. The matter of the ownership of the coal was a matter of dispute. The Oceanic Company and W. G. Irwin & Co. kept their coal together in the same yard. However, the amount of coal, a sack of coal, was valued at the sum of 50 cents. He pleaded not guilty. He was tried upon the charge and was found not guilty by the jury, although unquestionably the facts deduced and proven at the time of the trial established his guilt beyond reasonable doubt, beyond all possibility of doubt, but the amount was so trifling the jury, I presume, did not feel justified in finding him guilty.

Senator MITCHELL. What is the minimum penalty?

Judge ROBINSON. No minimum; it is not to exceed two years.

Senator MITCHELL. Maximum?

Judge ROBINSON. Two years in prison at hard labor.

Senator MITCHELL. At hard labor?

Judge ROBINSON. Yes. The cost at that term, the cost incident to the trial of that person upon that trifling charge, was to the Territory of Hawaii \$55.

At the same term there came up before me for arraignment a person charged with the theft of 3 cans of condensed milk. The condensed milk retails for 20 cents a can. I presume the actual value was not to exceed 45 cents. However, he pleaded guilty. I suspended sentence until the August term. Judge Gear presided at that term, and I presume the case was not pressed.

Senator MITCHELL. Of course we don't want to make this too lengthy. What is your purpose in coming here?

Judge ROBINSON. My purpose is to say, so far as I am personally concerned, I have no personal knowledge of the number of cases annually commenced. I do not remember the cases actually pending at this time, but from a statement actually furnished to me by Mr. Henry Smith, in 1898, 465 cases were commenced.

Senator MITCHELL. Calendar year?

Judge ROBINSON. Calendar year; yes. Statements are made up by Mr. Smith for the biennial period for the purpose of furnishing the governor and also the chief justice with data in his possession. Mr. Henry Smith is clerk of the judiciary department of the Territory of Hawaii and custodian of the records of the first circuit court. In 1901 there were 780 cases commenced, showing an increase in the four years from 465 to 780. As to the actual cases pending I have no actual knowledge, but Mr. Smith has furnished me with a statement, and he will substantiate my statement as soon as I have finished. The cases actually pending now number 441.

Senator BURTON. What is that?

Judge ROBINSON. The number actually pending, 441. From the 17th of February to the 17th of August, six months, I have heard 79 cases, 25 probate and guardianship matters. Those, of course, consume a very small portion of the time; they are merely petitions pre-

sented after notice. During the same period Judge Humphreys heard 25 cases, of which 48 were probate and guardianship matters. This did not include motions to strike out. The work done by me does not seem to compare very favorably with that performed by Judge Humphreys, but a considerable number of the cases before him were probate matters, which consume but little time compared with the litigated cases. The difference to my disadvantage is due to some extent, doubtless, to my inexperience on the bench and the further fact that I had several cases which occupied an unusually long time. One case thirteen days and another eight days.

There is another matter. There was a comparison made between Chawnee County and here.

Senator BURTON. I spoke of it.

Judge ROBINSON. If the commission wish, I would like to compare the county of Alameda, in which I resided twenty years and practiced law twelve years.

Senator MITCHELL. Briefly.

Judge ROBINSON. The jurisdiction of the superior court is very much the same as the circuit court for the Territory of Hawaii. I have resided twenty years in Alameda County and have practiced there eleven years. Alameda County has a population of 110,000 and an annual agricultural production not to exceed 30 per cent in value of the annual agricultural and industrial production of the island of Oahu. They have five judges.

Senator MITCHELL. Do you hold court at any other place on this island except at Honolulu?

Judge ROBINSON. That is all. In the county of Alameda—

Senator MITCHELL. What is the city?

Judge ROBINSON. Oakland.

Senator MITCHELL. What of the judges?

Judge ROBINSON. Judges of the superior court. Their jurisdiction is coequal with that possessed by the circuit court judges here.

Senator MITCHELL. Five judges and a population of 110,000?

Judge ROBINSON. Five judges and a population of 110,000.

Senator MITCHELL. All trial judges?

Judge ROBINSON. All trial judges.

Senator MITCHELL. All sitting at once?

Judge ROBINSON. All sitting at once, and there is no distinction between law and equity. It has been abolished and there is but one form of action. There are no terms. The court is always in session, and jury cases heard and determined at any time. The judges of the superior court of Alameda County are elected for a term of six years, and the annual salary of each is \$4,000. One half is paid by the State of California and one half by the county of Alameda. I think that is about all I have to say, except that what I have already stated, from what I could see from a period of six months, it was possible for me to try 79 cases, and only during ten days of that time was I not actually on the bench, and that ten days was fully occupied in writing decisions.

Senator MITCHELL. All cases or Federal matters come before the Federal court?

Judge ROBINSON. Yes, sir.

Senator MITCHELL. Judge Estee?

Judge ROBINSON. Judge Estee.

Senator MITCHELL. What do you say as to the necessity of three judges?

Judge ROBINSON. I have not any doubt about it in the light of my own personal experience. I am free to say that it is absolutely impossible for more than 180, possibly 200 (because Judge Humphreys tried 98 cases during the six months—it is possible to dispose of 98). Of the 780 cases commenced in 1902, only—that is, 1901—

Senator MITCHELL. That would be only 8 cases a month.

Judge ROBINSON. Two hundred a year.

Senator MITCHELL. Sixteen a month.

Judge ROBINSON. There are about twenty-five working days in a month, and I don't think the cases—the litigated cases—will average more than—they certainly will average more than one day—for I have had one eight and one thirteen days. They will average very nearly two days each. I have no question that, with 780 cases commenced, it would be absolutely impossible for two judges to transact the business.

Senator BURTON. You say 780 cases commenced in the year 1901?

Judge ROBINSON. Of these 780, 60 were discontinued because they were suits of insurance companies arising from the bubonic plague fire, and were all upon the same issue, and when that had been determined by the supreme court the other actions were discontinued.

Senator FOSTER. Are there many cases settled out of court after having been commenced?

Judge ROBINSON. I should think not over 25 per cent. That would leave considerably over 600 cases to be tried.

Senator BURTON. How long after the law was passed before you were appointed?

Judge ROBINSON. I think that was approved in April, 1901, and my nomination was sent to the Senate on the 18th of December, 1901.

Senator BURTON. Were you eligible when the law was passed?

Judge ROBINSON. Yes.

Senator BURTON. When did you become eligible?

Judge ROBINSON. In July. I arrived here on the 19th of July, 1900—either on the 19th or the 26th. It was Thursday. It must have been the 26th, because I recollect Judge Estee and his suite arrived here on the 1st of August. I came here slightly in advance of Judge Estee, as United States commissioner for this Territory.

Senator BURTON. How is the record now compared with what it was a year ago?

Judge ROBINSON. The record—in what respect?

Senator BURTON. The record in regard to cases?

Judge ROBINSON. I think there is a slight increase.

Senator BURTON. Do you know that there is?

Judge ROBINSON. No; Mr. Smith will be able to tell you more about it. My impression is so.

Senator BURTON. It is only a slight increase?

Judge ROBINSON. Oh, I think just about the same number.

Senator BURTON. Now, then, in the past only one judge could sit at a time here?

Judge ROBINSON. Yes; but that only was determined during the May term. I wish to disclaim any responsibility for any conclusion of that kind.

Senator BURTON. I am not charging you with it. What cases are determined at term?

Judge ROBINSON. All criminal cases must be tried at term, and the majority of law cases. Equity cases may be tried at chambers, and by stipulation of the attorneys jury-waived cases may be tried out of term time.

Senator BURTON. The larger per cent of the cases would be tried in term time; disposed of during term time?

Judge ROBINSON. I hardly think so. I think it would be just about even; you can't do but so much.

Senator BURTON. If the court was so that both judges could sit and determine cases at the same time, could not two judges dispose of the business?

Judge ROBINSON. I don't think so, because that condition existed for six years prior to the passage of the act creating of the three judges, and even then they got behind.

Senator BURTON. What have you to say with regard to the statements of Judge Humphreys and Judge Gear, that two judges can easily dispose of the work and have time to spare?

Judge ROBINSON. I think Judge Humphreys has not considered the matter. I think the statements of Mr. Smith will show that, and my own experience. I have counted the number disposed of by Judge Humphreys during a period of six months, and I do not see how it can be done.

Senator BURTON. A good many cases on the docket are there because the lawyers won't dispose of them?

Judge ROBINSON. I don't think so.

Senator BURTON. You don't? How many cases are on the present docket that were there a year ago?

Judge ROBINSON. Some are there that have been there for two years.

Senator BURTON. How many there a year ago?

Judge ROBINSON. I can not say; but they remained on because of the congested condition of the calendar.

Senator BURTON. I saw a statement in the paper yesterday that you couldn't get lawyers to try cases.

Judge ROBINSON. That is so. In regard to jury-waived cases we have had some trouble.

Senator BURTON. That docket is like all others, some cases remaining on from year to year.

Judge ROBINSON. I should say, as I have stated, that about 25 per cent, probably that, of the cases originally commenced would be disposed of by discontinuing.

Senator BURTON. It is only your opinion that you need three judges.

Judge ROBINSON. I think so, unquestionably.

HENRY SMITH, sworn.

Mr. REYNOLDS. Mr. Smith is deaf and he wishes me to write down the questions.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. SMITH. Henry Smith; age 47; clerk in the judiciary department; Hawaiian.

Senator MITCHELL. How long have you been clerk to the judiciary?

Mr. SMITH. Going on twenty years, and I have charge of the books of that department.

Senator MITCHELL. Have you prepared a statement of the pending

business in the courts of this circuit? If so, present it to the stenographer to be attached and made a part of your testimony.

Mr. SMITH. I have prepared a comparative statement which I will read.

Senator MITCHELL. Make any statement you wish with respect to the three judges in this district.

Mr. SMITH. With respect to the three judges I have to say that it is absolutely necessary to have the three judges in order to expedite the work, or else the cases will be tied up and dragged. And why I think so is this fact: In the year 1900 there remained unfinished cases, 342, with two judges only on the bench, and for the nine months of this year (I must explain that for the year 1901 I have been unable to make up a summary of the unfinished work remaining at the end of 1901, because I have had only time to work on the nine months this year and not had time to go back twelve months further), so I may compare the nine months of 1902 with the twelve months of 1900, having had not much time to work on 1901.

Senator MITCHELL. What is the pending business now in this circuit?

Mr. SMITH. The amount of pending business now for the nine months just passing is 441, with three judges, or supposed to be three judges.

Senator MITCHELL. Does more than one judge sit at a time?

Mr. SMITH. They have up to a certain time of this year. I think last August term, where the question was raised, either last August or last May term, that concurrent sessions could not be held of this year.

Senator BURTON. Get on with anything he wants to say.

Mr. SMITH. I have nothing more to say unless some questions are asked.

Judge HUMPHREYS, recalled.

Judge HUMPHREYS. The question as to the necessity of a third judge is largely a matter of opinion and it would be unbecoming in me to press my opinion for the nonnecessity of a third judge in view of the opinions expressed of the necessity of that official by so many distinguished gentlemen, but I wish to present the matter a little further. Something has been said with reference to the condition of the calendar of the circuit court of the first circuit. I desire to make some observations. In 1900 the bubonic plague was declared by the board of health and in Honolulu the circuit courts were closed. The two circuit judges were members of the citizens' sanitary committee, so that for a period of sixty or ninety days there was an interregnum in judicial business. The courts were practically abolished. They were closed. I might say that we were almost under martial law, the board of health exercising all the powers of the government. As a result of the bubonic plague a number of houses in what is commonly called Chinatown and in other portions of the city were destroyed by fire under the directions, and as a result of the directions of the board of health. A considerable portion of the property so destroyed was insured in different companies. The policies of very many of the companies provided that the company should not be liable where the fire was caused by order of any civil or municipal authority. That is the substance of the clause in the policies. Not less than 150 suits were brought against these insurance companies. That would nominally increase the calendar. Two or three of these cases were tried and they went to the supreme court and when they were decided were decisive of the remaining cases.

Senator MITCHELL. How many of those cases?

Judge HUMPHREYS. About 150 in the beginning, I should say. Now, then, there are a number of other cases on the calendar, law cases on the calendar, equity cases. We have a divorcement of law and equity. There are a number of cases on the calendar apparently intended to increase the calendar, but continued under injunction. A large number of cases were continued by consent. The judges here are limited to four terms of court a year, a term of three months limited to twenty-four working days. Now, when I took the bench the bailiff would declare court and I then could hear any kind of a law case. Equity cases have no jurisdiction in term court; they are chambers matters. There is a divorcement of law and equity. If we had the system of allowing all judges to try all kinds of cases, with no distinctions, I believe, as I stated, even if we had that system, two judges could do all the work and have time to spare. I know day after day since I have been on the bench I have had nothing to do, although I sat. I would state, furthermore, with reference to the accumulation of business on the calendar, that outside of the time the courts were not running during the plague—sixty to ninety days—I was appointed in July, 1900, and concurrently with me was appointed Judge Silliman. Within three weeks after he was appointed Judge Silliman resigned. That left me alone to do the business of this circuit for a period of about nine months, when Judge Gear was appointed. Within ten days after Judge Gear took the oath he received a cablegram announcing the death of his fiancée. He went on to Philadelphia to meet her remains and was absent sixty days. For a period of eleven months after annexation there was only one judge. The increase of business is due to that fact. I alone not only made inroads on the calendar but was keeping up with the business.

Appointments of executors and guardians, letter of administration, would probably take about fifteen minutes, in some cases ten minutes. Accounts come up for guardians and administrators and are referred to a master, and the master subsequently renders a report in writing. The court looks over it and approves it or disapproves it. The transaction of the probate business amounts to nothing. In most of the States the probate judges are not required to be lawyers.

Judge SILLIMAN, recalled.

Mr. SILLIMAN. In reference to the question of appeals I wish to call attention to the case of *Miners' Bank v. The State of Iowa*, 12 Howard, page 1.

Senator BURTON. I don't mean to interrupt, but that matter has been called to our attention. Are you the man that was appointed judge?

Mr. SILLIMAN. I was appointed judge.

Senator BURTON. How long?

Mr. SILLIMAN. Three months under the present administration as under the Republic of Hawaii during the transition period, and I was afterwards appointed by President McKinley, and two months later I resigned.

Senator BURTON. You resigned? Did you give your reasons for resigning to the department?

Mr. SILLIMAN. I don't know that I did. If I did, I think I gave briefly two grounds. I stated one ground, that it was an intolerable position and the other ground that it was inadequate pay.

Dr. SLOGGETT, recalled.

Senator BURTON. We are advised by the former president of the board of health that the expenditures that were made from the government for the suppression of the bubonic plague are all on file in your office, showing just what money was expended and for what, and we would like if you will furnish us an itemized statement of those expenditures.

Dr. SLOGGETT. Originally they were on file, but they have been turned over to the auditor. We have some duplicates, but the originals are with the auditor of the Territory.

Senator BURTON. Would it be more convenient for the auditor to furnish them than for your board?

Dr. SLOGGETT. I imagine so. They have the originals there.

Governor SANFORD B. DOLE, recalled.

Senator MITCHELL. Governor, I believe you have in this Territory an office known as treasurer of the Territory?

Governor DOLE. Yes.

Senator MITCHELL. Who is the present treasurer?

Governor DOLE. The treasurer yesterday morning was Mr. Wright, W. H. Wright.

Senator MITCHELL. How is the treasurer appointed?

Governor DOLE. By the governor.

Senator MITCHELL. With the concurrence of the senate?

Governor DOLE. Yes, if the senate is in session; if the senate is not in session the appointment is good until the senate meets.

Senator FOSTER. Temporary until the session meets?

Governor DOLE. If it is a four years' appointment and the senate does not approve, then it comes to an end at the adjournment of the senate.

Senator MITCHELL. That officer has charge of all the public funds of the Territory?

Governor DOLE. Yes; he has the administration of the public funds.

Senator MITCHELL. He has possession of them?

Governor DOLE. There is an officer called the registrar of public accounts, and he has direct charge of the funds.

Senator MITCHELL. Still, he is under the control of the treasurer?

Governor DOLE. Yes.

Senator MITCHELL. How is that officer appointed?

Governor DOLE. He is appointed by the treasurer.

Senator MITCHELL. Is that officer under bonds?

Governor DOLE. Yes.

Senator MITCHELL. Is the treasurer under bonds?

Governor DOLE. No.

Senator MITCHELL. Is there any provision of law requiring the treasurer to give bonds to the Territory or anybody else?

Governor DOLE. No; I think not.

Senator MITCHELL. Was Mr. Wright under bonds?

Governor DOLE. No.

Senator MITCHELL. You say on yesterday he was the treasurer. Has he ceased to be treasurer?

Governor DOLE. I believe that he has left the country, and regard that as a resignation.

Senator MITCHELL. Why has he left the country, if you know?

Governor DOLE. He had admitted that he used some of the funds.

Senator MITCHELL. How many of the funds has he admitted?

Governor DOLE. I understand about \$18,000.

Senator MITCHELL. Has he made a confession to that effect?

Governor DOLE. I was not present. He admitted to Secretary Cooper that he had taken funds, and I think that he stated the amount. I am not sure of that.

Senator MITCHELL. How long had he been treasurer?

Governor DOLE. He was appointed last year after the adjournment of the session of the legislature. That was in June. Must have been in May or June, I think.

Senator MITCHELL. When was this defalcation discovered?

Governor DOLE. On Tuesday.

Senator MITCHELL. Tuesday of this week?

Governor DOLE. Yes.

Senator MITCHELL. From what fund was the money embezzled by that officer?

Governor DOLE. Apparently from what is called the Chinese fund.

Senator MITCHELL. Describe that fund. What is it?

Governor DOLE. That has come from moneys which under the law of the Republic of Hawaii the Chinese were allowed to come into the country for three years to engage in field labor on plantations for hire, with the provision that when they ceased such work they should be deported or should leave the country, and their employers were required to deposit, I think, a dollar a month for each man in the Postal Savings Bank, and that was done and this fund grew up, the fund being drawn upon to send the Chinese back.

Senator MITCHELL. By what provision of law did it get into the hands of the treasurer, if any?

Governor DOLE. I don't think by any provision of law. It was necessitated by the termination of the Postal Savings Bank by the organic act.

Senator MITCHELL. Put in some other depository, and the treasury was selected?

Governor DOLE. It was placed partially in the First National Bank, I think. Part of it, I think, is there now.

Senator MITCHELL. What was the amount of that fund placed in the hands of the treasurer?

Governor DOLE. I don't know. It may have been about \$63,000. Mr. Cooper has charge of that matter of sending these men away. These men are constantly coming in with their receipts from the Postal Savings Bank, and the money is furnished them when they leave the country.

Senator MITCHELL. Do you think it advisable that the law should permit an officer like the treasurer of a Territory to serve without bond?

Governor DOLE. It don't look so from recent events. It has always been the custom of this country for the heads of departments to be appointed without giving bonds. The reason is, in regard to the treasurer, the registrar of public accounts is supposed to be in possession of the funds. In this case it happened that this Chinese fund was not under the control of the registrar of public accounts. It was placed in the treasury as a special depository, and it was in charge of

the treasurer and the registrar of public accounts had nothing to do with it. The treasurer kept the key of the container it was in.

Senator MITCHELL. As a matter of fact, is it not a fact that all the moneys of the Territory—all the public moneys of the Territory—are in the possession, to all intents and purposes, and under the control of the treasurer? Hasn't he the key, and can't he go and count that money?

Governor DOLE. I think not. The registrar of public accounts is the man who is directly in charge, and he is responsible, and amounts are paid out according to appropriations by him.

Senator MITCHELL. Who is the registrar?

Governor DOLE. His name is Hapai.

Senator MITCHELL. Appointed by whom?

Governor DOLE. By the treasurer.

Senator MITCHELL. Give bond to the treasurer?

Governor DOLE. Yes. He gives bond to the treasurer or to the Government.

Senator FOSTER. Who approves of these bonds?

Governor DOLE. I think the treasurer. I am not sure.

Senator MITCHELL. The governor has nothing to do with that?

Governor DOLE. No. The governor ought to have something to do with the registrar of public accounts according to my construction of the organic act. When Mr. Wright was appointed, I talked the matter over and supposed I had a clear understanding with him that all important officials under him should be appointed subject to my approval, but it was not carried out in any case.

Senator MITCHELL. You say Mr. Wright, the treasurer, has departed from the Territory, apparently?

Governor DOLE. Yes.

Senator MITCHELL. Has an effort been made to find him?

Governor DOLE. Yes. Yesterday morning he was absent. I asked Mr. Cooper, the secretary, to take charge of the treasury and the office, and he was expecting Mr. Wright in the morning. Mr. Wright said he would be there, and when he delayed in coming he spoke to me about it, and we sent officers down to the *Alameda* in the neighborhood of 10 o'clock to remain there until the *Alameda* left, watching for him, and before she left they searched the ship as thoroughly as they could.

Senator MITCHELL. Did they find any trace of him?

Governor DOLE. No, they found no trace of him.

Senator MITCHELL. Did you inquire at his home?

Governor DOLE. Yes, inquired at his home. Mrs. Wright said he left in the morning as usual, and that she expected him back to lunch.

Senator MITCHELL. Had not returned?

Governor DOLE. Had not returned.

Senator FOSTER. Has a warrant been sworn out against him?

Governor DOLE. No.

Senator MITCHELL. Governor, within the last few months, has any of the public officers here been charged with embezzlement?

Governor DOLE. Yes, the chief clerk of the public works department.

Senator MITCHELL. What is his name?

Governor DOLE. B. H. Wright.

Senator MITCHELL. He was chief clerk of the public works?

Governor DOLE. His position is called chief clerk, and has been from old time of the monarchy. He is under the superintendent of public works.

Senator MITCHELL. Who is the superintendent of public works?

Governor DOLE. James Boyd.

Senator MITCHELL. Is he in the Territory now?

Governor DOLE. No; he is away in California.

Senator MITCHELL. Is this chief clerk under bonds, do you know?

Governor DOLE. I believe he is not.

Senator MITCHELL. Has he been indicted?

Governor DOLE. No; the grand jury has not met since.

Senator MITCHELL. Where is he now?

Governor DOLE. He is in prison.

Senator MITCHELL. Well, is there—has there not been two other men prior to that—two other officers indicted here within the last few months?

Governor DOLE. I think there were two men in the tax office; yes.

Senator MITCHELL. Who were they?

Governor DOLE. I don't know their names.

Senator MITCHELL. What was the charge against them?

Governor DOLE. I think it was embezzlement or something of that nature.

Senator MITCHELL. What particular positions did they hold, do you know?

Governor DOLE. I think they were clerks in the office—in the tax collector's office.

Senator MITCHELL. Do you know what they were charged with taking?

Governor DOLE. I think small amounts—\$5 or so.

Senator MITCHELL. Were they indicted?

Governor DOLE. I think so.

Senator MITCHELL. You don't remember their names?

Governor DOLE. I do not.

Senator MITCHELL. Are they still in office?

Governor DOLE. I suppose not.

Senator MITCHELL. Are they in the Territory?

Governor DOLE. I don't know. I suppose, of course, they are in the Territory.

Senator MITCHELL. Were they convicted?

Governor DOLE. They have not been tried yet.

Senator MITCHELL. Out on bail?

Governor DOLE. I don't know.

That is all.

HERBERT CLARK AUSTIN, sworn

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. AUSTIN. Auditor of the Territory of Hawaii; age, 43; residence, Honolulu.

Senator MITCHELL. How long have you lived in the Territory?

Mr. AUSTIN. I was born here.

Senator MITCHELL. You are auditor, you say, of the Territory?

Mr. AUSTIN. Auditor, yes.

Senator MITCHELL. Is there deposited in your office the vouchers, the items of expense that were made by the board of health for the suppression of the bubonic plague in 1900?

Mr. AUSTIN. Yes; every original voucher is deposited there.

Senator MITCHELL. Can you furnish the commission with a statement of these items of expense?

Mr. AUSTIN. Yes; we have a detail book.

Senator MITCHELL. How long will it take?

Mr. AUSTIN. We can give you the detail book in a few minutes?

Senator MITCHELL. I mean a statement from the book?

Mr. AUSTIN. That would be a matter of some days, or a week, to get that up. You wanted an itemized statement of all the expenses?

Senator MITCHELL. We wanted a statement to show what the expenses were for.

Mr. AUSTIN. Yes.

Senator MITCHELL. So that by looking at a statement we can know what the expenses were. How many vouchers are there; about how many?

Mr. AUSTIN. About 2,100, I think.

Senator MITCHELL. Why would it take so long to make up a statement?

Mr. AUSTIN. Just a mere statement, it would not take so long. You want to separate the items of expense up of all material and supplies and for labor and medical attendance?

Senator MITCHELL. Yes; we want an itemized statement of the expenses. It amounts to practically a copy of the substance of the vouchers.

Mr. AUSTIN. We have a copy of all the vouchers in the detail book, if that would serve you. You can look it over; but you can't take it with you, for it is a record of the office. I think there are about 400 pages in the detail book of 50 lines.

Senator MITCHELL. You are an accountant, are you not?

Mr. AUSTIN. Yes, sir.

Senator MITCHELL. What we want you to do is to make a statement that we can look at and see what that money was spent for. Can you make that statement?

Mr. AUSTIN. Yes; we can make that statement.

Senator MITCHELL. Well, if you think you can make it before we leave—do you think you can make it before Tuesday?

Mr. AUSTIN. I think so.

Senator MITCHELL. Very well; furnish it to the chairman of the commission, if you please, so that it shall become a part of your evidence.

E. S. BOYD, recalled.

Judge HUMPHREYS. Mr. Boyd, have you prepared a statement showing the income from what is commonly called the crown lands of Hawaii, from January 1, 1893, up to the first day of January, 1902?

Mr. BOYD. Up to the first day of September, 1902.

Senator MITCHELL. That is this month?

Mr. BOYD. Yes.

Judge HUMPHREYS. What are the aggregate receipts?

Mr. BOYD. \$432,378.06, between the dates January 17, 1893, and September 1, 1902.

Judge HUMPHREYS. You have a detailed statement?

Mr. BOYD. Each class I have segregated.

Judge HUMPHREYS. Kindly file that as a part of the testimony.

Mr. BOYD. Yes, sir.

Judge HUMPHREYS. Do you desire to make any supplementary statement just filed?

Mr. BOYD. I have a sample of the crown land lease as requested.

Judge HUMPHREYS. Will you file that sample of the crown land lease? Is it generally used by the government in leasing what is called the crown lands?

Mr. BOYD. Yes.

Judge HUMPHREYS. What is that you have in your hand now?

Mr. BOYD. A statement of the crown lands, giving the district, area of property leased and the estimated value. We have to estimate the value of all the public lands; we can not make an accurate value of them.

Judge HUMPHREYS. Does that cover the rental value of all outstanding leases?

Mr. BOYD. The rental value.

Judge HUMPHREYS. What is the rental value of the aggregate number of acres now under lease?

Mr. BOYD. I have not got that.

Judge HUMPHREYS. I thought you said you had the estimated value?

Mr. BOYD. I have the estimated value, but it is not added up.

Judge HUMPHREYS. It is a mere matter of calculation?

Mr. BOYD. Yes, sir.

Judge HUMPHREYS. What was the area of what is commonly called the crown lands on the 17th day of January, 1893?

Mr. BOYD. 920,633 acres.

Judge HUMPHREYS. That is, on the 17th day of January?

Mr. BOYD. We kept those areas right along from 1892.

Judge HUMPHREYS. Is that area now owned by the Territory of Hawaii?

Mr. BOYD. No; that is the area of the crown lands.

Judge HUMPHREYS. Has some of it been sold?

Mr. BOYD. The land is alienated from the government and is taken right along for settlement purposes.

Judge HUMPHREYS. Kindly file that as a memorandum as a part of your testimony, Mr. Boyd.

Mr. BOYD. I also file a report of the commissioners of crown lands, 1894, which also gives a table of the lands named A, B, C, D, and E.

Judge HUMPHREYS. The information is geographical?

Mr. BOYD. Yes.

Judge HUMPHREYS. Kindly file that and make it part of the testimony.

Mr. BOYD. Filed.

Judge HUMPHREYS. Any other data?

Mr. BOYD. The report of the commissioners of public lands for 1896, the first report under the law of 1895; it is quite an interesting report.

Judge HUMPHREYS. Please file that.

Mr. BOYD. Also the 1896-97 biennial period, and gives receipts and expenditures and notes of transactions during the two years; 1898-99, that also is practically the same report. The report of the commis-

sioner of public lands for 1900 also gives some very interesting statements; also the appendix thereof. You can see there the letters between the Territorial governor and the Secretary of the Interior in regard to the land question.

Judge HUMPHREYS. Kindly file that. Any other?

Mr. BOYD. I have the data that was asked for by Mr. Parker yesterday.

Judge HUMPHREYS. Can you furnish me duplicates of the memorandums you have filed here, so that I may use them in preparing my brief?

Mr. BOYD. For all these I think we have copies.

Senator MITCHELL. What disposition of the money was made—the money arising from the leases of the crown lands since 1893?

Mr. BOYD. We have two separate accounts—land revenue and land sales. The land sales are deposited in the treasury as a sinking fund.

Senator MITCHELL. And the money arising from leases?

Mr. BOYD. Goes to public ways, schoolhouses, etc.

Senator MITCHELL. For the benefit of the Territory, local government—has been used for the benefit of the Territory?

Mr. BOYD. Yes, sir.

Judge HUMPHREYS. One question. Mr. Boyd, what would you say is the value of the crown lands at the present time?

Mr. BOYD. I could not state; amounts to quite a considerable sum.

Judge HUMPHREYS. I mean of the crown lands, those leased and those not leased; state it approximately, Mr. Boyd.

Mr. BOYD. Well, I should say very near to \$2,000,000.

Judge HUMPHREYS. You would not say less than that, would you?

Mr. BOYD. No, sir.

Senator MITCHELL. Are you able to state, Mr. Boyd, the amount received from leases of the crown lands the year before the change?

Mr. BOYD. Yes, I think I can. About \$35,000; in round figures, \$36,000.

Senator MITCHELL. That is shown in the report. Do you know the year before that?

Mr. BOYD. The crown lands leases were made for fifty and thirty years.

Mr. Parker requested me to obtain information about Puuanahulu. The portion leased is 12,000 homestead sites.

Senator BURTON. Now, is it completely surrounded by government lands?

Mr. BOYD. (Reads paper marked "Commission of Public Lands.")

Mr. PARKER. I understand from you that that 12,000 acres adjoined, went through the breadth of the land?

Mr. BOYD. Yes.

Mr. PARKER. Why was that piece of 12,000 acres cut out that way?

Mr. BOYD. I could not give you any information because I didn't have the transaction of that land. However, I guess I could state it is impossible to graze on that land; there is absolutely nothing on it.

Colonel PARKER. This portion which the government expects to reserve as a forest?

Mr. BOYD. Nothing growing on it. Goats have been running on it. I am giving you information as the record says; that is all I can do.

Senator MITCHELL. You were not commissioner at that time?

Mr. BOYD. No, sir.

Mr. PARKER. You was in office at that time?

Mr. BOYD. I was not.

Mr. PARKER. Before you were appointed commissioner wasn't you in the same office?

Mr. BOYD. No, sir; I was under the kingdom, under the interior department, which is a distinct department from that of commissioner of public lands.

Mr. LOEBENSTEIN. Has not an application lately been filed for the setting apart of a certain portion of this land for forest reservation?

Mr. BOYD. No, sir. The matter has been decided by the governor and executive heads of the department.

Mr. LOEBENSTEIN. Any objection from the land commissioner?

Mr. BOYD. It was in accord with all other heads of departments.

Mr. LOEBENSTEIN. Is it a fact that you, as land commissioner, pass upon all applications there for lease or purchase?

Mr. BOYD. On the recommendation of the commissioner, with the approval of the cabinet and the governor.

Mr. LOEBENSTEIN. Who forms this council?

Mr. BOYD. It is the advisory council.

Mr. LOEBENSTEIN. Who forms the advisory council, yourself for one?

Mr. BOYD. Well, when we have matters to bring up that needs advice from other heads we sit in council and discuss these matters.

Mr. LOEBENSTEIN. The superintendent of public instruction?

Mr. BOYD. Sometimes called in, yes.

Mr. LOEBENSTEIN. The treasurer?

Mr. BOYD. Yes.

Mr. LOEBENSTEIN. Other heads of bureaus, members of that advisory council?

Mr. BOYD. The active heads of public matters form the council.

Mr. LOEBENSTEIN. The fact that you are responsible, Mr. Boyd, for the proper carrying out of your duties, do you not think as a matter of fact that the discretionary power, whether over lands leased or sold, should be vested entirely in your charge and not be under the control of the superintendent of public instruction and other heads.

Mr. BOYD. Mr. Loebenstein, when I am permitted to discuss matters of other departments and to give them advice within my little knowledge, of course, I should think that they had a perfect right to discuss matters in my department and to give me advice.

Mr. LOEBENSTEIN. Then you admit that you get the advice of the so-called advisory council before you can act?

Mr. BOYD. Not necessarily so. No.

Mr. LOEBENSTEIN. But you do it?

Mr. BOYD. We do it, yes. I would like to make a few remarks.

Senator MITCHELL. Very briefly.

Mr. BOYD. The statement was made that the records would show that Mr. Baker was an applicant. I can not tell until we get mail back.

About the Kaihinui Settlement Association, and the remarks made by Mr. Loebenstein. That was applied for under Mr. Brown, as commissioner of public lands, and approved by him in 1899, and the matter was held in abeyance until January 1, 1902, on account of President McKinley, and the matter was immediately taken up by Mr. Brown, and the Kaihinui Settlement Association was carried out by me on the acts of my predecessor in office.

In regard to the settlement of lands in Puuanahulu, I can show in my department numerous applications of Hawaiians, Portuguese, and Americans for land in this district; and on account of the applications the lands were subdivided, and out of 200 applications that were filed two-thirds were Hawaiian and the other third American. The authority for the disposition of public lands can be seen on page 16 of the report of 1900.

The statements made that the United States land law be made applicable here were only of a vague character. No specific land laws were mentioned.

As to the vituperative remarks against the head of the department, I have nothing to say, except that if enough public-spirited citizens should request the present head of this department to resign he would do so, but I have never heard any dissatisfaction expressed about my official actions until here. My actions are overlooked by the present government and no person has a question of its honesty in the matter and I think that its head has the confidence in the present head of my department. I do not want to go into personalities because I am a public official. I only wanted to explain my position.

HENRY CHASE HAPAI, SWORN.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. HAPAI. Age, 30; registrar of public accounts, Territory of Hawaii.

Senator MITCHELL. Where were you born?

Mr. HAPAI. In Hilo, island of Hawaii.

Senator MITCHELL. Are you a native Hawaiian?

Mr. HAPAI. I am, sir.

Senator MITCHELL. How long have you held the position as registrar?

Mr. HAPAI. Since the 14th day of May, 1901.

Senator MITCHELL. How is that office created—by what law?

Mr. HAPAI. I think you will find it in the civil laws of 1897.

Senator MITCHELL. Territorial law?

Mr. HAPAI. It is a Territorial law now as it stands.

Senator MITCHELL. Was it a law of the republic?

Mr. HAPAI. It is older than the republic—before the republic. It is a law of the monarchy. It must be.

Senator MITCHELL. What are the duties of your office?

Mr. HAPAI. To sign receipts for all cash in the treasury and to account for all money put into the treasury on treasury warrants.

Senator MITCHELL. Are you a bonded officer?

Mr. HAPAI. Yes, sir.

Senator MITCHELL. To whom.

Mr. HAPAI. To the treasurer of the government of the Territory of Hawaii.

Senator MITCHELL. In what amount?

Mr. HAPAI. \$20,000.

Senator MITCHELL. Who has charge of the public moneys of this Territory?

Mr. HAPAI. All the public moneys of this Territory received in the office and receipted by me I am in charge of.

Senator MITCHELL. You are subordinate to the treasurer, are you not?

Mr. HAPAI. Yes; I am.

Senator MITCHELL. And you are bonded to him for the faithful performance of your duties?

Mr. HAPAI. Yes.

Senator MITCHELL. The treasurer has charge of the moneys, has he not?

Mr. HAPAI. A certain sum of money he has charge of.

Senator MITCHELL. Well, what part has he charge of?

Mr. HAPAI. The part he is not in charge of is the cash for which I am responsible to him and for which I give receipts to him as registrar of public accounts.

Senator MITCHELL. To whom do you give receipts?

Mr. HAPAI. To the government officers that deposit the money in the treasury.

Senator MITCHELL. You say you have charge of that money?

Mr. HAPAI. Of all that I give receipts for.

Senator MITCHELL. What has he charge of, then?

Mr. HAPAI. Of a certain cash that I do not give receipts for.

Senator MITCHELL. Well, how does he get the money?

Mr. HAPAI. I don't know, sir.

Senator MITCHELL. Who has the keys to the safe that has the public money?

Mr. HAPAI. I do.

Senator MITCHELL. Has the treasurer any duplicates?

Mr. HAPAI. No, sir; not that I know of, sir.

Senator MITCHELL. Does he use your keys?

Mr. HAPAI. No, sir.

Senator MITCHELL. Does he have access to the safe?

Mr. HAPAI. No, sir.

Senator MITCHELL. Then you, as registrar, have charge of the public moneys of the Territory?

Mr. HAPAI. Yes, sir; all I have receipts for.

Senator MITCHELL. You give bond, not to the Territory, but to the treasurer, for \$20,000?

Mr. HAPAI. Yes, sir.

Senator MITCHELL. How much, on an average, is in your possession?

Mr. HAPAI. Cash?

Senator MITCHELL. On an average, running right straight along through several months?

Mr. HAPAI. Different months it is different.

Senator MITCHELL. About the daily average, as near as you can say?

Mr. HAPAI. About \$200,000, \$225,000, \$50,000.

Senator BURTON. What is the most that may come into your possession at any one time? What is the most, in the aggregate, that may come into your possession at any one time?

Mr. HAPAI. \$50,000; sometimes \$90,000.

Senator BURTON. You don't understand. I don't make myself clear. What is the largest amount that may come into your possession, not that you get in at one time?

Mr. HAPAI. About \$600,000.

Senator BURTON. Would average \$200,000?

Mr. HAPAI. \$200,000, yes.

Senator BURTON. And the only security anybody has is your integrity, of course, which, I take it, is first class, and the bond for \$20,000, and that bond to the—not to the government, but to the treasurer.

About how much has the treasurer in his hands at any one time—actual control of, personally?

Mr. HAPAI. I hardly can tell you.

Senator BURTON. Well, about? You have some idea—\$20,000, \$30,000, \$50,000?

Mr. HAPAI. \$50,000 or \$100,000; I don't know.

Senator BURTON. Along in that neighborhood?

Mr. HAPAI. Yes, sir.

Senator BURTON. He is under no bonds to anybody?

Mr. HAPAI. Not that I know of.

Senator BURTON. What is the present treasurer's name?

Mr. HAPAI. The one acting now?

Senator BURTON. No, yesterday.

Mr. HAPAI. William H. Wright.

Senator BURTON. How long has he been treasurer?

Mr. HAPAI. I don't know. Some time in May. He was appointed in May, I think. I was appointed May 14, and he was appointed before that.

Senator BURTON. Last?

Mr. HAPAI. Last, 1901.

Senator BURTON. State what you know, if anything, in regard to his departure.

Mr. HAPAI. Not until last night when the cash was counted and his papers this morning.

Senator BURTON. How much is the shortage?

Mr. HAPAI. The acting treasurer now reported what he found out last night. It was \$17,900 and some odd dollars, what was in the papers this morning.

Senator BURTON. It is correctly stated in the morning paper?

Mr. HAPAI. That is what we found.

Senator BURTON. Where is Mr. Wright?

Mr. HAPAI. I don't know, sir.

Senator BURTON. Has he disappeared?

Mr. HAPAI. Not that I know of. He has not been in the office.

Senator BURTON. When did he report at the office last?

Mr. HAPAI. It was on Tuesday—Tuesday morning.

Senator BURTON. Of this week?

Mr. HAPAI. Of this week.

Senator BURTON. Do you know whether or not he has left the islands?

Mr. HAPAI. No, sir.

Senator BURTON. Has there been any effort to arrest him?

Mr. HAPAI. Not that I know. I only know what I have been told.

Senator BURTON. Any complaint made against him by anybody?

Mr. HAPAI. Not that I know of, sir.

Senator BURTON. From what fund has this amount that has disappeared been taken?

Mr. HAPAI. From what is called the Chinese fund; that is what we found last evening.

Senator BURTON. What fund is that? State its character.

Mr. HAPAI. I don't know, sir. It was an old fund, and the cash was deposited with the treasurer.

Senator BURTON. You had nothing to do with that fund?

Mr. HAPAI. I had not, sir.

Senator FOSTER. Where do you keep your money?

Mr. HAPAI. In the vault.

Senator FOSTER. All of it?

Mr. HAPAI. Yes, sir.

Senator MITCHELL. Do you know a man by the name of A. D. Thompson?

Mr. HAPAI. I have heard the name, but can't place him.

Senator MITCHELL. Do you know a man by the name of Joseph Woodward?

Mr. HAPAI. If it is that native that used to be in the tax office I know him.

Senator MITCHELL. That is what I am speaking of. State what you know about this man being arrested for embezzlement.

Mr. HAPAI. All that I know—

Senator MITCHELL. He is connected with the tax department?

Mr. HAPAI. Yes, sir.

Senator MITCHELL. Who is the head of the tax bureau?

Mr. HAPAI. Mr. Pratt.

Senator MITCHELL. First name?

Mr. HAPAI. J. W. Pratt.

Senator MITCHELL. Is he here on the Lanai, do you know?

Mr. HAPAI. I don't see him, sir.

Judge HUMPHREYS. How long have you been in the treasurer's office? Have you not been in the treasurer's office under the republic?

Mr. HAPAI. Yes; I was.

Senator MITCHELL. How long did you say?

Mr. HAPAI. Since the 14th day of January, 1894.

Judge HUMPHREYS. Then you were in office before annexation?

Mr. HAPAI. Not in the position I am now holding.

Judge HUMPHREYS. You were in the office holding some position?

Mr. HAPAI. I was messenger first.

Judge HUMPHREYS. Then what office?

Mr. HAPAI. Then bookkeeper.

Judge HUMPHREYS. You worked your way up to the registrar of public accounts?

Mr. HAPAI. Yes, sir.

Judge HUMPHREYS. Was Mr. Wright in the employ of the republic of Hawaii?

Mr. HAPAI. He was registrar of public accounts when I was bookkeeper.

Judge HUMPHREYS. When he was made treasurer what position did he hold?

Mr. HAPAI. Before he was made treasurer?

Judge HUMPHREYS. Before he was made treasurer by Governor Dole.

Mr. HAPAI. Registrar of public accounts.

Judge HUMPHREYS. And from that position he was promoted to treasurer?

Mr. HAPAI. Yes, sir.

Judge HUMPHREYS. Now, is the tax office under the control of the treasurer of the Territory? Who appoints Mr. Pratt?

Mr. HAPAI. The treasurer.

JACOB F. BROWN sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. BROWN. Age, 49; present occupation, I am manager of the Abstract and Title Company; formerly commissioner of public lands.

Senator MITCHELL. You may make any statement you desire.

Mr. BROWN. I had intended to make it in writing, sir, but I have been too much pressed for time. I will be obliged to make a verbal statement, but will try to be as brief as possible.

The first point that occurs to me in the matter of public lands is this: There is apt to be an undue importance attached to the public lands, in overestimating the capabilities and resources of the area of these lands. The idea that it is an enormous, magnificent field to establish homesteads is a mistaken one, and it is absolutely out of the question. At least 500,000 acres of this area is positively barren and can not be redeemed; secondly, about 200,000 acres, which is better, and that includes most of the crown land, which is under lease to the plantations.

Now, in regard to the present law. I drafted the present law. I believe it is suited to the conditions here, and that it grew up as a result of the experience in this country extending over forty or fifty years. The difficulty has not been that people could not get land. The difficulty has been with the homesteader to know what to do with his land after he got it. Way back years ago people got lands on very easy terms. For instance, the land commission awards first were made way back in 1848 and 1850. Eleven thousand; about 11,000 acres were made in awards, the very cream of the whole country.

Also between 1848 and 1856 to 1860 about 500,000 acres of government land were sold at 12½ cents to \$1 an acre. This was also some of the best, absolutely the best, the government had to sell. It was picked out by people, and bought as picked out. The process of consolidation went on. New homestead laws were passed in 1894, and considerable land was taken up under these laws. The law was drawn with the intention of dealing with the remaining land, to conserve it, and use it as well as it could be used. I believe it is a good law, and I say this having absolutely no interest in the question except as one of the community. I have the welfare of the community at heart, being myself interested in the cause of the small landowner, which I have at all times, in office and out of office, tried to forward.

Now the question is, Should the American land laws be extended here? There are two general reasons why I think our own laws are better. These laws were drawn with special reference to the conditions existing here, and so make special provisions for cases which the American laws do not make. It provides a system of homestead laws with special reference to the native population who have unfortunately alienated their lands so extensively, and provides that they may get an inalienable piece of land, if they so desire it. I believe this is better than the American law. I have had a copy of the American law in my office, but I haven't it fully in my mind now. This Hawaiian law is intended for the benefit of the community. The main point in the two systems of laws is this, that the process has always been here to give fee simple titles and consolidate. The man who got a piece of land could not make a living and simply sold out to the next man or some big corporation. The policy of the present land law should be to take the lands suitable for homesteading and allow reasonable conditions for parties to make a living and a home, but not to get the government out of the land business, because it would simply mean that the land would fall into the hands of the plantations and be consolidated into large areas and big ranches.

Senator MITCHELL. Will you describe in a few words your understanding of this homestead law here?

Mr. BROWN. The homestead law that exists here is this: It has a provision by which a citizen may acquire in the class of agricultural land 8 acres in first-class land and 16 acres of second-class land. The proportion of the amount increases as the quality of the land decreases. The homesteader takes that land, and the only requirement—he has all the privileges of an owner—the only requirement is that he shall make it his home. He can't alienate it by any process whatever.

Senator MITCHELL. When does his holding end?

Mr. BROWN. He holds it for a period of five or six years, until certain provisions are carried out; he has got a house and so on, then, having done that, a nine hundred and ninety-nine year lease is given him, which comes very near to perpetual ownership.

Senator MITCHELL. Amounts to a fee?

Mr. BROWN. Amounts to a fee, except he can not sell it; it can't be taken by the process of the court.

Senator MITCHELL. Simply the same as the American system dealing with the Indian.

Mr. BROWN. I am not sure, I think the period is only twenty years.

Senator FOSTER. No rent?

Mr. BROWN. No rent. If a party makes application, there may be rent attached to it.

Senator FOSTER. How much rent do they have to pay?

Mr. BROWN. There is a fee of \$2 at the time they make the original application; they charge \$2 to \$5 at the time on the nine hundred and ninety-nine year leases.

Senator FOSTER. Then the law stipulates that they shall do certain things, build a house, etc.?

Mr. BROWN. Yes; there are no hard restrictions.

Senator FOSTER. Can you give the date of the act?

Mr. BROWN. The land act of 1895, drafted in August, 1895.

I would like—it might be interesting to this committee—to know the opinion of someone who has been connected with this matter all along in some shape. The question as to who make the best homesteaders: Without question the Portuguese prove to be the best homesteaders. They have taken lands, and if they did not develop them they have at any rate kept them. Other nationalities have been inclined, I dare say from force of circumstances, to go off.

Now, the lease matter has been discussed a great deal in considering the question of the public lands here, and I would like, merely on that point, to refer to this. I believe in the lease system. I state that in this country, and I state that in the most unqualified way, I believe it is not only a necessity to get it best value, but only the best way of bringing a good value to the government, and that we get a better value from it in that way than in any other way. I have no argument in favor of the old style of laws which were made which did not require the crown lands to be put up at auction. After 1885 there was no change in the crown-law proposition, so far as the government was concerned. I used to report and make suggestions, and I have thought I was the first to suggest the reservation to be put into these leases requiring the surrender of portions of it if found suitable for homesteading.

That very proposition has been made and made to the benefit of the community. The reason that I think these leases are the methods of giving to the community the value of the lands is this: I have in mind, for instance, to-day a lease for something like ten thousand a

year, and the parties, the plantation that owns it, are in a position to put water on it. The government gets that benefit—the whole public gets it. Take away that lease and I have no hesitation in saying that the land would revert back to its desolate condition and be the same old thing that it has been, for even if people could be found to take it up as a homestead they could not make a living and it would go to the plantations.

Senator MITCHELL. How many acres may be leased under the existing law to one person?

Mr. BROWN. I think, if my recollection serves me right, there is no distinct limit. There is a limit of time.

Senator MITCHELL. No limit of land?

Mr. BROWN. No limit as to the land? Limit as to time.

Senator MITCHELL. What is the time limit?

Mr. BROWN. The longest lease that can be held of agricultural land is five years; other than agricultural, twenty-one.

Senator MITCHELL. How is the land to be had?

Mr. BROWN. From the commissioner of public lands.

Senator MITCHELL. Alone?

Mr. BROWN. He is authority in his discretion, as I have always understood it; he has the right to fix the up-set price.

Senator MITCHELL. Are these lands priced by any person or anybody prior to being offered by lease?

Mr. BROWN. Only by the officers in the land office who know the values of the land.

Senator MITCHELL. No special board of appraisers?

Mr. BROWN. The matters as they come before me, I knew the lands and my custom was to consider carefully the land value and to consider the values by parties living in the vicinity, and then fix what I considered a fair price—an upset price to put up at auction.

Senator MITCHELL. What is the largest amount of land included in any one lease that you know now exists?

Mr. BROWN. I suppose that the largest areas are on the island of Hawaii. I should say that the largest lease that occurs to me would be either the land at Humuula or the land at Kaohe, on the island of Hawaii.

Senator MITCHELL. About what is the area in each of them?

Mr. BROWN. Humuula must have, I should say, 150,000 acres. Kaohe was subdivided in leases. I suggested it be divided into five tracts, and one there is about 120,000 acres. I may say in regard to both of these leases that a large part of them are wastes and deserts.

Senator MITCHELL. Put up at auction?

Mr. BROWN. The lease of Humuula, not. Crown lands before the lands were taken over.

Senator MITCHELL. Made under the monarchy?

Mr. BROWN. Yes.

Senator MITCHELL. Do you know what is paid by these lessees respectively?

Mr. BROWN. I think the lease on Humuula was originally made for the whole land, the ahupuaa, and the amount named to James Gay, not more than \$700 or \$800.

Senator MITCHELL. The lands are not now held by the original lessee, subleased?

Mr. BROWN. They have been. The lower part was assigned, I think. In regard to the five tracts of Kaohe, they were all sold at

auction, and I am not able to state what the aggregate amount would be.

Senator MITCHELL. Has Ewa plantation any lands under lease?

Mr. BROWN. No, sir; that is private land. I don't know of any public lands they have, whatever.

Senator BURTON. What is a fair valuation for the public lands, in your judgment?

Mr. BROWN. I am sorry that I have not the figures. I have estimated that in earlier years; I have made an estimate of it. Speaking in a general way, I should think that the whole thing to-day was easily worth \$5,000,000.

Senator BURTON. Isn't that a very low price?

Mr. BROWN. I purposely put it at a low price. I am making a conservative estimate. I know that you can look at a great tract of land on Hawaii, of 80,000 acres, say, and think it is worth a great deal more than it is. My ideas were to be conservative.

Senator BURTON. You take into account the relative scarcity of land; don't you think it is worth much more than that?

Mr. BROWN. The total is about 1,700,000 acres.

Senator BURTON. At any rate, now?

Mr. BROWN. I still continue to think that that is a fair though a conservative estimate, and I should consider that the two classes of lands, the crown lands and the Government lands, were about of equal value.

Senator BURTON. Now, you have said—I don't remember your language—that you unhesitatingly recommend the continuance of the present system of management of the public domain. That it was the only way that you could see how the community would get any benefits from the public domain?

Mr. BROWN. I think I made that statement in regard to leases.

Senator BURTON. Do you recommend the present land system here?

Mr. BROWN. The present land laws?

Senator BURTON. Yes; the administration under the Territorial management?

Mr. BROWN. Yes, sir.

Senator BURTON. As being the most beneficial to the community?

Mr. BROWN. Yes, sir.

Senator BURTON. What is the income from the public domain?

Mr. BROWN. When I was in office?

Senator BURTON. Now.

Mr. BROWN. I am out of office.

Senator BURTON. Well, you know about what it is. I will tell you. It is \$116,000 a year.

Mr. BROWN. Yes; I think that is it.

Senator BURTON. It costs about \$16,000 to get that in. What kind of business management is that to get \$116,000 here on \$5,000,000? You can't think of any kind of management that would benefit the community any better than that?

Mr. BROWN. I have not passed an opinion upon the land.

Senator BURTON. Mr. Brown, don't you think that proves conclusively that the government in doing business can not do it as well as a private individual or corporation?

Mr. BROWN. I believe, as a general rule, that is correct.

Senator BURTON. Now, if you would leave the land laws, the land system, similar to what it is now, don't you think the Federal Govern-

ment could administer it very much better, and at least at no cost at all to the local government, and that it would be better to put it in the hands of the Federal Government than to leave it here in the hands of the local government? That would not cost you anything.

Mr. BROWN. Assuming that the laws remain the same, the system the same, to administer from that end of the line?

Senator BURTON. Administered from this end of the line.

Mr. BROWN. Well, on general principles I believe that things are best administered directly in the country where the occasion exists.

Senator BURTON. In other words, you believe very, very strongly in local self-government?

Mr. BROWN. Yes, sir.

Senator BURTON. And you have it here in these islands?

Mr. BROWN. To a considerable extent, yes.

Senator BURTON. To what extent do you have it? You have it in electing the legislature and a Delegate to Congress. Is that not so?

Mr. BROWN. It is limited undoubtedly.

Senator BURTON. Now, your position in believing in local self-government would hardly support the system of government that you have here now; I am not speaking of the administration of it, but of the system.

Mr. BROWN. I presume that the system as it exists here is not fully in accord with the local self-government proposition.

Senator BURTON. Asking about selling these leases at auction, is there active competition in bidding against each other?

Mr. BROWN. Some times.

Senator BURTON. How many occasions? Very seldom.

Mr. BROWN. Very seldom.

Senator BURTON. Now, Mr. Brown, is that—is not that auction sale considerable of a farce? I do not want to be severe, but are those sales not considerable of a farce?

Mr. BROWN. Yes, sir; if you will allow me to state why. Because, in general, the price that is fixed by the government and required to be bid is such that nobody else in the country would pay it. The people who get these leases are asked to pay richly for the privileges which they get. That is the reason. The idea seems to be that they get these lands for some favor or low value. On the contrary, they get them at a high value.

Senator BURTON. The income seems to indicate that they are paying enormously for their lands, considering the value that has been set upon them—\$5,000,000, \$116,000 income.

Mr. BROWN. A large proportion of those leases were made years ago—forty years ago.

Senator BURTON. Not very many, forty years ago. Now, that simply argues that since the system of government you have had all along here, instead of continuing it, you had better change it, had not you? It is for your benefit, not mine. It is nothing to me, except as an American citizen. I am trying to put it to you in the light in which it appeals to me.

Mr. BROWN. Well, the facts as they have seemed to present themselves to me, in office and out of it, are, on the whole, that, the conditions here taken into consideration, the administration of our laws has produced as good results as could be produced under any system we could get.

Senator BURTON. But, now, since you have become a part of the Union, it would be wise, do not you think, as fast as you can, to con-

form to the customs and habits, particularly with regard to the laws, of the country of which you are a part?

Mr. BROWN. Certainly; so far as is consistent with the welfare of the country in which we are.

Mr. LOBENSTEIN. Mr. Brown, from your knowledge of the localities in the Hilo district, the government land has, by the governor's report, a total of 37,000 acres, valued at \$341,500, from which the government derives a rental of \$9,600, nearly \$10,000, in rent. Do you consider that a fair return on the valuation placed upon those lands in the governor's report?

Mr. BROWN. No; it seems to me to be small.

Mr. LOBENSTEIN. It is too small.

Mr. BROWN. I think it is too small.

Mr. LOBENSTEIN. Do you consider a valuation of \$341,500 a fair valuation on an area of 36,100 acres—an equitable one from the public standpoint? Is it too high or too low, or about right?

Mr. BROWN. It was an estimate I made, and I made it supposing it to be correct. I have no reason to change it. It was my estimate at that time and I believe it to be fair.

Mr. LOBENSTEIN. You don't know what private lands are taxed at immediately adjacent to these public lands?

Mr. BROWN. I have had nothing to do with it for some time.

Mr. LOBENSTEIN. Are they assessed at the rate of \$10 per acre?

Mr. BROWN. I have said I do not know.

Senator MITCHELL. I desire to state that since Mr. Wilcox was on the stand yesterday the committee has received a communication from the chairman of the central committee. I will read it.

Mr. WILCOX. I will let the people answer it.

CURTIS P. IAUKEA, recalled.

Mr. IAUKEA. I want to make a statement with reference to the values represented of the Crown lands and public lands from my own personal experience how they are derived. The values given are entirely underestimated. They were reached this way, so far as the Crown lands are concerned, of which I was agent at the time. The existing rentals at that time were taken as a basis on which the lands were valued, which, of course, as everybody knows, most of the lands were rented at that time at nominal rentals. That was taken into consideration in arriving and reaching the values now referred to. It don't show the proper valuation of the lands if the present rental rates are taken into consideration. I might state a case of the land of Waiakea, leased at about \$2,000 here, I think containing 100,000 acres, 4,000 acres cane land, and in estimating the value of that land alone the rental was taken into consideration and the duration of the existing lease, so that it does not show the proper valuation of the lands as given in the published or official reports.

As to the change of management, I might say, if it is of any interest to this committee, that prior to the present law the management was in the commissioners of Crown lands, known at that time. The sovereign who exercised the prerogatives, as he claimed, of leasing lands, that is, any land that the sovereign wished to lease to anybody, and any intimation to that effect was very generally carried out for the reason that the incumbency of the commissioners was at the pleasures and will of the sovereign. I think the law required that two of the ministers should hold an office on the board, and the other, the third, was usually latterly the chamberlain, who received the reve-

nues. He was executive officer of the commission, and he received the revenues and managed the Crown lands at the dictation of the sovereign. And that is the reason so many lands and leases are held to-day at purely nominal rents, and on those rentals are based the valuations you see in the published reports to-day.

Senator BURTON. What in your judgment are the Crown lands worth?

Mr. IAUKEA. Well, if we take the present values of sugar lands, I think it would reach nearly \$20,000,000, if the present values of the sugar lands, rice lands, and agricultural lands was based on the present market rates.

Senator BURTON. What would you say that the total value of all the public lands was, these 1,700,000 acres?

Mr. IAUKEA. Well, it would be somewhere between \$25,000,000 and \$30,000,000 in my estimation, roughly.

Senator FOSTER. The value of the lands would, I suppose, fluctuate as the price of sugar fluctuates?

Mr. IAUKEA. I don't know as that has formed any basis for the valuation judging from the assessments made recently. The sugar prices have decreased, but the assessments, on the other hand, have been increased.

Senator BURTON. Isn't Ewa plantation a basis on which the lands are recognized throughout the country?

Mr. IAUKEA. I dare say it is.

Senator BURTON. Then it is sugar?

Mr. IAUKEA. Yes, everything depends on sugar. It is unfortunate that all our eggs are in one basket. It is an unfortunate condition for any country to find itself in.

Secretary COOPER, recalled.

Senator MITCHELL. State if you have an officer in this Territory known as the treasurer.

Mr. COOPER. I have been commissioned this morning as such.

Senator MITCHELL. Who was the treasurer yesterday?

Mr. COOPER. Mr. W. H. Wright was the man.

Senator MITCHELL. How long was he treasurer?

Mr. COOPER. He succeeded Mr. Lansing, I think.

Senator MITCHELL. In the early part of May of last year, as already testified?

Mr. COOPER. Yes.

Senator MITCHELL. Is the office provided for by the organic act?

Mr. COOPER. Yes, sir; he succeeded largely to the duties of the minister of finance under the republic and monarchy.

Senator MITCHELL. Is that act—or rather is there any law of the republic or Territory requiring him to give bond?

Mr. COOPER. None.

Senator MITCHELL. He has been acting without bond, then?

Mr. COOPER. Yes.

Senator MITCHELL. What amount of money is it possible to be in his hands at one time?

Mr. COOPER. I should say, probably, under present conditions, the amount would run between \$600 and \$700,000. That is to say, in the treasury. The registrar of public accounts is immediately in custody of the funds. Speaking about that point, it may be well to explain as I go along. I presume the reason why the law did not provide for giving bond is that as chief executive officer he was a member of the

cabinet. No Hawaiian law requires any member of the cabinet to give bonds, and but one legislature has met since the consummation of annexation and that matter has not been attended to.

Senator MITCHELL. It would be a little like this then. Suppose the head of a Department at Washington, the Secretary of the Treasury, was transferred to the office of Treasurer of the United States, no bond would be required?

Mr. COOPER. Except that I understand the Treasurer is the immediate custodian of all the funds. That is not the case here. The treasurer is not the immediate custodian of the cash of the Territory.

Senator MITCHELL. What do you know or do not know of the embezzlement of Mr. Wright?

Mr. COOPER. Early on Tuesday morning I had an intimation that matters had gone wrong in the treasury department, but as I was subpoenaed here I could not follow up my information at all until after I was relieved from testifying at about half past 10. I then called upon the treasurer and questioned him upon matters. He assured me everything was correct in his department. I then went to my own office. Then about half an hour, possibly an hour, Mr. Wright came to my office accompanied by W. O. Smith and J. A. Magoon and he then told me that there was a shortage in his accounts.

Senator MITCHELL. Of how much did he say?

Mr. COOPER. I am not quite positive of the amount he told me, a large amount.

Senator MITCHELL. Did you institute an investigation?

Mr. COOPER. Not at that moment. I asked him if any restitution could be made. Also what plans he had made and what effort he had made to secure the Territory from loss. He then told me what his plans were. I asked him to call again early in the afternoon to see me on the subject. I was due at a lunch and came late. He met me immediately on my return from the lunch and went into details as to his plans, in which, I believe, it was possible for him to raise in the neighborhood of \$10,000 toward making the amount good. In the meantime I had reported my information to the governor and to the attorney-general, and the governor requested me to take charge of the situation and to report to him what I found. It was about the closing of business hours and I excused the treasurer from further attendance, asking him to report at 9 o'clock to me at the office.

I did not notify the police of the situation, because I felt confident that he could not leave the country—at least until I would have another opportunity to notify the police, and he gave assurance that he would be at the office promptly. I was at the office a quarter to 9 and waited until half past 9. I then notified the police of the situation and asked them to prevent his leaving the Territory. I then made a request of the registrar of public accounts for a statement of the condition of the finances and a report upon all affairs over which he had jurisdiction. He furnished me with the statement in about two hours. Governor Dole in the meantime addressed a letter to me, putting me in charge of the office. I then went to work, with the registrar of public accounts, to check the condition of the treasury, and have the result of my figures here.

Bookkeeper's account showed \$39,976.80 to be due on land sales account, and that was the first cash counted, and we found it to be correct. The next amount was the postal savings-bank account, which was turned over to the treasurer from the postal savings-bank authorities. That showed \$2,270.18 due, and we counted that and

found it correct. The next was the road tax, and the bookkeeper's accounts showed \$33,480.69 to be due, and we counted that and found it to be correct. There were then small warrants, old ones of 1898 and 1899, never called for, \$254.75. This we checked and found to be correct, making a total special deposit of \$75,982.33. The bookkeeper's accounts showed due on current account, which is generally the amount in the treasury of receipts of revenue, and is the same from which bills are paid of \$194,029.11, and that was counted and found to be correct within 4 cents. We were 4 cents short, which is explained in this way: We have no pennies in cash, and in cashing warrants if a warrant has a balance of cents less than 3 cents it is not paid to the person; if it is 3 or more, he gets 5. It vibrates in favor and sometimes against the treasury.

I then took hold of the gold and silver certificates presented for redemption and I found the total issue of gold certificates \$225,000. They have been all redeemed with the exception of \$315 outstanding and the gold coin there to back that up. The total amount of silver certificates was \$312,000, and it has all been redeemed and canceled with the exception of \$4,050.

That ended the inspection with the accounts which are handled by the registrar of public accounts. There was a separate cupboard in the vault which contained the special deposits of the treasurer.

Under the law which permitted the immigration of Chinese for a limited period of residence in the country, the law established by the republic of Hawaii, it was the practice to open an account with each laborer in the postal savings bank and to require the plantation where the laborer was employed to deposit \$1.50 monthly, chargeable to the laborer's wages, which was for the purpose of paying his passage back to China whenever he ceased doing agricultural work. I will read the conditions:

The said ——— is allowed to enter the Republic of Hawaii solely on the condition that while in the islands he will engage in no trading or mechanical occupation or other occupation than domestic service or agricultural labor in the field or in rice or sugar mills, and that he will, whenever he shall cease to follow his vocation as an agricultural laborer in the field or in sugar or rice mills or as a domestic servant, depart from the Hawaiian Islands, and that for every breach of such condition he shall, on conviction by any police or district judge, be liable to a fine of \$100; and upon the further condition that at the end of each month the sum of \$1.50 shall be paid by him to the board of immigration in such manner and subject to such regulations as said board shall direct, until such payments amount to the sum of \$36, which sum is to be applied by the board of immigration toward the payment of his return passage money at the time he desires to return to China; and upon the further condition that he comply with all the requirements of law and all rules and regulations promulgated by the minister of foreign affairs relative to Chinese immigration.

Upon the admission of the immigrant his photograph was taken in triplicate. This is one of the photographs. The other went on the registration books of the board of immigration and the other went with him to the plantation. He was also given a number, and was required to register at the board of immigration office whenever he should change his residence. The Federal Government paid \$4,000,000 of the bonded indebtedness of the Territory, and these accounts were a part of the amount. The certificates for the payment of this amount were signed by the governor and secretary and addressed to the First National Bank of this city. These were in turn forwarded to Washington and the cash received and placed to the credit of Mr Wray Taylor, who had been secretary of the bureau of immigration. When I became acting governor a year ago, it occurred to me that the

government was the custodian of these funds, and that it should be in the treasury rather than in a private institution. I will say that as the government had previously been custodian of the notes it occurred to me that the government should continue to be under the Territorial government. I therefore made a demand upon the First National Bank for the funds, which were paid to the treasurer, he giving me receipts in form.

Senator MITCHELL. When was that?

Mr. COOPER:

July 25, 1901. Fifty-two thousand seven hundred and ninety-five dollars. Received from Henry E. Cooper, acting governor of the Territory of Hawaii, the sum of \$52,795, on special deposit, to be disposed of as may hereafter be designated.

WILLIAM H. WRIGHT,

Treasurer of the Territory of Hawaii.

Subsequent receipts were filed with me until the sum reached the sum of \$161,226.25, which is the total amount which the treasurer has received on account of the immigration fund. There is still a balance in the account in the First National Bank, used by Mr. Taylor, acting as the representative of the old board of immigration, to pay the passage of the men who are still going back to China.

I opened this cupboard and found in it \$131,675.54 of treasury warrants; that is to say, the fund had been used by the treasurer, with the governor's approval, to help out the depleted condition of the treasury to that amount. That left a balance that should have been there of \$29,551.71. I counted the coin in the compartment and it amounted to \$11,601.80, leaving a shortage of \$17,949.91.

Senator MITCHELL. No bond was exacted of him by the government?

Mr. COOPER. No.

Senator MITCHELL. Mr. Secretary, explain very briefly the *modus operandi* of carrying on the accounts of the government here. You have a tax collector in the first place?

Mr. COOPER. Yes. We have an assessor, district and deputy assessor.

Senator MITCHELL. A tax collector?

Mr. COOPER. The assessor is the tax collector as well.

Senator MITCHELL. By what law is that office provided for?

Mr. COOPER. There is a specific law in regard to collection of the revenues of the Territory.

Senator MITCHELL. In the organic act?

Mr. COOPER. It has not been changed. It has been continued in force by the organic act.

Senator MITCHELL. The old law?

Mr. COOPER. Yes.

Senator MITCHELL. Is the tax collector required to give bond?

Mr. COOPER. He is by the treasurer, not by law.

Senator MITCHELL. No law requiring the tax collector to give bond?

Mr. COOPER. If my recollection is correct. I have not looked it up.

Senator MITCHELL. Your recollection is that the treasurer requires a bond?

Mr. COOPER. Yes.

Senator MITCHELL. What amount?

Mr. COOPER. I could not say.

Senator MITCHELL. He collects the taxes and pays them over to the treasury?

Mr. COOPER. The registrar of public accounts.

Senator MITCHELL. A receipt to him?

Mr. COOPER. Yes.

Senator MITCHELL. How are the disbursements made? How do you dispose of that money?

Mr. COOPER. They are made on warrants issued by the auditor, he in turn receiving from the heads of departments the properly approved vouchers.

Senator MITCHELL. The heads of departments approve the vouchers and submit them to the auditor?

Mr. COOPER. Yes.

Senator MITCHELL. He directs warrants to be issued?

Mr. COOPER. Yes.

Senator MITCHELL. Those warrants are drawn on the treasurer?

Mr. COOPER. Drawn on the treasury. That is my recollection. May be on the treasurer. It is my recollection it is the treasury.

Senator FOSTER. What does the treasurer do with the warrant?

Mr. COOPER. If he has sufficient funds, he pays on certain days—certain days set apart. It is presented to the registrar of public accounts for payment, not to the treasurer in person. We have the 5th, 15th, 20th, 25th, and 30th or the last of each month on which warrants are paid. If there is not sufficient funds in the treasury to pay the warrants, they are registered by the treasurer and placed in a book kept for that purpose.

Senator MITCHELL. When is it paid?

Mr. COOPER. The warrant then bears 5 per cent interest from the time it is registered; that registrar of public accounts is required by law to give bond, and that is the purpose.

Senator FOSTER. By what authority does the treasurer require his subordinates to give him bond?

Mr. COOPER. That of the registrar is provided by law; not less than \$5,000. I think the present bond is \$20,000.

Senator BURTON. Now, I want to ask about another matter, Mr. Cooper. There is a man now here who is called chief clerk of the superintendent of public works?

Mr. COOPER. He was; yes. B. H. Wright.

Senator BURTON. Who is in charge of that office now?

Mr. COOPER. The second clerk, Mr. Cooke; I don't remember his initials.

Senator BURTON. Mr. Boyd has not returned yet?

Mr. COOPER. No.

Senator BURTON. Have you any information about the amount of the defalcation?

Mr. COOPER. Yes.

Senator BURTON. How much is it?

Mr. COOPER. In round numbers \$8,000; I forget the odd dollars—\$8,500.

Senator BURTON. Did Mr. Wright say anything to you what he had done with this money the other day?

Mr. COOPER. No.

Senator BURTON. No information? You have no information outside?

Mr. COOPER. None whatever.

Senator MITCHELL. Mr. Secretary, what is the financial condition of Mr. Wright?

Mr. COOPER. As I said in my former testimony, I was fairly well

satisfied from a surrender of all his assets; if his statement was true, probably \$10,000.

Senator MITCHELL. How much could be reached by force of process?

Mr. COOPER. Well, if his information was correct, that could be reached, and the attorney-general is already preparing his suit for that purpose.

Senator MITCHELL. Is there any information filed against him?

Mr. COOPER. No.

Senator MITCHELL. Do you know where he is?

Mr. COOPER. No.

Senator MITCHELL. Do you know whether he has left the islands?

Mr. COOPER. No.

Senator MITCHELL. Have you seen him since?

Mr. COOPER. No.

Senator MITCHELL. What effort, if any, has been made to find him?

Mr. COOPER. The sheriff reported to me as soon as he left my office. He went personally to the dock and placed the ship in charge of the chief of the harbor police and two assistants. He then left the dock and made inquiries and telephones to ask me if he had yet appeared at the office. I told him, no. He then returned himself to the ship and assisted in the searching of the *Alameda*.

Senator MITCHELL. Yesterday?

Mr. COOPER. Yes.

Senator MITCHELL. Sailed for San Francisco?

Mr. COOPER. Yes.

Senator MITCHELL. Do you know of any person that has seen him since?

Mr. COOPER. I saw him last on Tuesday. He was seen boarding the ship by several.

Senator MITCHELL. How long before its departure?

Mr. COOPER. About half past 10.

Senator MITCHELL. Sailed when?

Mr. COOPER. Sailed at 1 o'clock.

One matter which I might add to this testimony may be of public moment. The \$140,000-odd check which was received from the Treasurer of the United States has not been paid by the First National Bank, but has been placed upon deposit for collection.

Senator MITCHELL. The check is on hand?

Mr. COOPER. The check has been forwarded by the First National Bank for collection. It was drawn on the subtreasury in San Francisco. We hold the receipt of the First National Bank for the draft. They were unwilling to pay, having no duplicate for the check. They have sent to San Francisco.

Senator MITCHELL. Mr. Wright has signed the check?

Mr. COOPER. No.

Mr. EMMELUTH. The secretary has read a permit that applied to Asiatics coming to this Territory in the years prior to annexation. I would like to ask him, Of the number of permits so granted, how many have returned to their homes?

Mr. COOPER. I could not give you those figures offhand. I could supply them in a very short time.

Mr. EMMELUTH. The fund that is now in the Treasury represents what?

Mr. COOPER. Represents the remainder of the fund collected on that account, plus the amount which remains in the First National Bank.

Mr. EMMELUTH. Represents payments on account of Chinese that have never applied to the Department nor have ever departed?

Mr. COOPER. Yes.

Mr. EMMELUTH. They are going out very rapidly?

Mr. COOPER. Mr. Taylor says that on every steamer he is sending out a large number. They do not get money. A ticket is bought for them and they are placed aboard the steamer under his supervision.

Mr. EMMELUTH. Give the number that have so left since annexation.

Mr. COOPER. I could do so by requesting Mr. Taylor to give me the figures. I have not got them.

Mr. EMMELUTH. I would like to have the committee receive that information.

Mr. COOPER. You would like to have that?

W. O. SMITH recalled:

Mr. SMITH. On Tuesday last, about the time that the commission adjourned, just before the luncheon hour, Mr. Magoon, an attorney of this place, asked me to come to his office to meet Mr. Wright himself. On that occasion Mr. Wright made a statement to me as attorney, the details of which are not proper for me to report, excepting one statement—he emphasized the fact that Mr. Henry Hapai, the registrar, was in no way responsible for what he had done. I advised him to go at once to the governor and make a statement there. He requested Mr. Magoon and me to go with him. We went up to the executive building. Mr. Magoon wished to see Mr. Cooper, the attorney of the Territory. We were in his office, and when we finished the interview there Mr. Dole had left his office to come here to the luncheon. I left Mr. Wright to them, advising him to tell everything about it. I wish to make this statement especially concerning what Mr. Wright had to say of Mr. Hapai.

JAMES WILLIAM PRATT sworn:

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. PRATT. Age, 41; residence, Honolulu; occupation, assessor and collector for the first taxation division of the Territory.

Senator MITCHELL. How long have you been assessor and tax collector of the Territory?

Mr. PRATT. I was appointed and took office on the 1st of July, 1901.

Senator MITCHELL. Under what law were you appointed?

Mr. PRATT. Under the civil law of the Territory. That is the same law that applied under the monarchy, I believe.

Senator MITCHELL. Same law; and it became a part of the law of the Territory of Hawaii under the organic act?

Mr. PRATT. Yes, sir.

Senator MITCHELL. Does that law require you to give any bond?

Mr. PRATT. Not less than \$10,000.

Senator MITCHELL. Are you under bond? If so, how much?

Mr. PRATT. \$20,000.

Senator MITCHELL. To whom does the bond run?

Mr. PRATT. I think it is to the treasurer. He is the appointive officer.

Senator MITCHELL. What is the total amount of the taxes you collect in a year?

Mr. PRATT. Really I could not answer you.

Senator MITCHELL. About—approximately?

Mr. PRATT. About, say, \$750,000.

Senator MITCHELL. How much money do you have in your hands at any time?

Mr. PRATT. Well, I have made it a practice not to hold in our vaults over \$5,000 or \$6,000 in coin. I may have checks indorsed.

Senator MITCHELL. There is nothing to prevent you from holding \$100,000?

Mr. PRATT. Nothing except a general order from the audit office that we are to cash in every month; \$100,000 would be more than a month's collection.

Senator MITCHELL. How often do you cash in?

Mr. PRATT. Not less than once a month, and oftener if I have more cash than I like to keep on hand, if I feel unsafe in keeping it.

Senator MITCHELL. Have you at times as much as \$10,000?

Mr. PRATT. Yes, sir.

Senator MITCHELL. At times \$20,000?

Mr. PRATT. No, never; the 1st and 15th might be more.

Senator BURTON. Checks and money?

Mr. PRATT. Checks and money. If I knew the drawers of the check to be perfectly good I might hold it in my hand a day or two or until I got a bunch of them, or indorse them over to the treasurer.

Senator MITCHELL. You can draw checks at any time. Nothing to prevent you from taking all the checks on hand and coming down and drawing?

Mr. PRATT. Except it was understood the treasurer would draw; I never draw. I indorse them and send them over.

Senator MITCHELL. How many clerks have you?

Mr. PRATT. I have several deputies and 45 clerks in the office.

Senator MITCHELL. Do you know Joseph Woodward?

Mr. PRATT. I do.

Senator MITCHELL. In your office?

Mr. PRATT. He was in office when I went there; when I went in, the latter part of May.

Senator MITCHELL. Do you know A. D. Thompson?

Mr. PRATT. I do. He went in the first part of May.

Senator MITCHELL. Have any trouble with them?

Mr. PRATT. Yes, sir.

Senator MITCHELL. What?

Mr. PRATT. On the 30th of March it was reported that two leaves were torn out of the personal tax-receipts book, and the deputy, Amana, brought the book and showed me where the receipts had been torn out. I took the numbers of the receipts and gave them to the deputies with instructions to watch for these numbers in their collection about town, to see if we could find where they were, and thereby trace who had taken them from the office. These instructions were carried out during the collection of April, and there was nothing found until the first part of May—somewhere between the 3d and 5th of May. Some where along there one of the deputies brought in a receipt other than one we were looking for, but of a higher number than that then in use. Then we overhauled all of our papers in the office to find what could have been missing. We found here in 1902 there were 111 or 113 receipts missing. Those were poll-tax receipts, with a face value, if they were used, of \$5 apiece. It was 211 or 213, because it was a little over \$1,000.

Senator MITCHELL. Those receipts were given to persons paying taxes?

Mr. PRATT. They were printed for that purpose. Poll tax, road tax, and school tax is \$5 against every male inhabitant between 20 and 60 years.

Senator MITCHELL. Has to pay a poll tax?

Mr. PRATT. Road tax, school tax, and poll tax together, ordinarily called poll tax.

Then, finding those matters missing, the only identification we had got up to that time was that the person who held those receipts that were found—the money had been paid for those receipts—was a Hawaiian. I think it was two days later we found two more of those receipts, and they were in the hands of Chinese, intelligent Chinese, and I made arrangements for these two Chinese to come to the office next morning about 8 o'clock or shortly past, and when I left the office in the evening I instructed the deputies to remain in the office until I should arrive. That of necessity would keep the helpers and the whole office force. The Chinaman came in, and I asked him if among those persons in the office was the one to whom he paid the money over, receiving these receipts. They pointed out Joseph Woodward as the man who had given them receipts. I thanked them for their services, and they went away. I called Woodward in the bank inner office, and I asked him to say if he knew of any reason why he should not make a trip to the reef. He implicated Thompson, and said it was under the instruction of the chief clerk in the office, who was under \$10,000 bond.

Senator MITCHELL. The chief?

Mr. PRATT. Woodward was a clerk at \$70 a month and was not under bonds. When he implicated Thompson—about that time Thompson came into the office, and I hardly remember what I said to him. At any rate, I took Mr. Woodward over to the attorney-general and laid the matter before him and placed the matter in his hands. Later it was taken up and carried to the grand jury, and an indictment was found against both of those parties. I understood they were released under \$5,000 bail. I understand—I don't know it to be a fact—I have only heard—but they were out on bail. I have seen one of them on the street; not the other.

Senator MITCHELL. Do these several deputies and clerks—have they a right to collect taxes?

Mr. PRATT. The deputies have a right to collect. At times it has been the custom to send one of the clerks out if a steamer was leaving and we had not a deputy to go.

Mr. Fitch called the attention of the Commission to the fact that there were in the country a large number of Chinese who had paid in money under the law of the republic who were entitled to have this refunded. This matter was called to his attention by the morning paper in the announcement of Mr. Wright's defalcation from this fund. Mr. Fitch was allowed time in the afternoon to present the matter in a written paper.

E. P. DOLE, recalled.

Mr. DOLE. I would say that a requisition upon the governor of California can't be drawn in a moment, and certainly not until there is reason to suppose that a person is going to California, and that under the laws of this Territory under these circumstances Mr. Wright would have been arrested here without a warrant, and that, as I believe,

every effort was made to find him, and that it was not thought that he was intending to go away until within about a couple of hours before he went. Then every effort was made to find him, and he would have been arrested without a warrant if he had been found.

Senator MITCHELL. What is your belief? That he went on the *Alameda*?

Mr. DOLE. I have not any means of information, Mr. Chairman, that are not open to you.

Senator MITCHELL. I am sure I don't know.

Mr. DOLE. I am satisfied from my knowledge of Mr. Brown that a very thorough search was made, and I do not see how it was possible for him to go on the *Alameda* without the help of some one on the vessel.

I desire to submit a statement in regard to the Spencer tenancy at will, of which I spoke. In my financial statement for the year ending 1900 and the report for the same time, the report for the fiscal year ending June 30, 1902, which has not been printed, but is in part embodied in the report of the acting governor, if the Commission desires it, I can have it typewritten.

Senator MITCHELL. You can furnish a copy when it is printed.

Adjourned until half past 2 o'clock in the afternoon.

EVENING SESSION.

THOMAS FITCH sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. FITCH. Residence, Honolulu; age, 64; occupation, lawyer.

Senator MITCHELL. How long have you resided in the islands?

Mr. FITCH. Seventeen months.

Senator MITCHELL. You were a former member of Congress from Nevada, I believe?

Mr. FITCH. Many years ago.

Senator MITCHELL. You and I had a fight there?

Mr. FITCH. You got the best of it I remember.

Senator MITCHELL. How long have you resided here?

Mr. FITCH. Seventeen months.

Senator MITCHELL. Been in the practice of the law here?

Mr. FITCH. Yes.

Senator MITCHELL. Do you desire to make any statements?

Mr. FITCH. (Reads.)

Senator MITCHELL. Submit your paper to the stenographer.

W. D. ALEXANDER sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. ALEXANDER. Age, 69; occupation, surveyor.

Senator MITCHELL. How long have you resided in the islands?

Mr. ALEXANDER. It is thirty-four years since I returned to the islands.

Senator MITCHELL. What have you been engaged in during your residence here?

Mr. ALEXANDER. I was engaged in teaching. I was principal of Oahu College for a number of years. I was then surveyor-general of this country under the monarchy and under the republic of Hawaii. I am now an assistant in the United States Coast Survey.

Senator MITCHELL. Have you a paper prepared that you wish to present?

Mr. ALEXANDER. I was invited by your honorable chairman to present something in regard to the land laws, and I am afraid it will be tedious.

Senator MITCHELL. All right; you may present it.

Mr. ALEXANDER. (Reads.)

PERCY M. POND, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. POND. Thirty-two years of age; residence, Honolulu for the last five years; Ewa plantation nine months previous. Occupation, first nine months at the plantation a luna, and then clerk in a hardware store, and then bookkeeper, and for the last two years, real estate agent.

Senator MITCHELL. You represent some of the young Hawaiians?

Mr. POND. Some of the younger American citizens in Honolulu.

Senator MITCHELL. Have you a paper prepared?

Mr. POND. Yes, sir. This petition has arisen simply from the feeling of a number of young business men gathering together in an office recently, and there are something like a hundred names, and there are certainly as many more outside being circulated by responsible men.

(Reads.)

W. O. SMITH, recalled.

Mr. SMITH. I wish to present a statement of the average yield of sugar.

R. W. WILCOX, recalled.

Mr. WILCOX. I have a number of people here who wish to present petitions to the committee.

DAVID KALAUOKALANI, Jr., sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. KALAUOKALANI. Age 28; residence, Honolulu; occupation, private secretary to Delegate Wilcox.

Senator MITCHELL. You are a native Hawaiian?

Mr. KALAUOKALANI. Yes.

Senator MITCHELL. What do you wish to present to the committee?

Mr. KALAUOKALANI. I wish to present to the committee the petitions signed by a great many of the qualified voters of the Territory.

To the honorable commission from the United States Senate to inquire into the conditions existing in the Territory of Hawaii, etc.:

To the President of the United States, and to the Senate and House of Representatives of the United States:

We, the undersigned, citizens of the United States and of the Territory of Hawaii, do earnestly petition Congress for the speedy enactment of such laws as may be necessary to make available, for the purposes of county, town, and city municipalities, the Territorial lands and other property necessary therefor.

In view of the fact that county, town, and city municipalities are desired by a large majority of the people of the Territory, and their enactment of a law providing for the establishment has been pledged to the people in the platforms of each and every political party of the Territory having nominees for election to the com-

ing legislature, we beg to call attention of Congress to the necessity for such speedy action in the premises as may be consistent with other affairs of the nation demanding their attention.

To the honorable, etc.:

Your petitioners, native Hawaiians and citizens of the United States, humbly pray that by the enactment of such laws as may be necessary therefor, the public lands of this Territory, or so much thereof as to you may seem meet and proper, may be set aside and made available for homesteads, in tracts of 40 acres each of the better lands and 80 acres of the inferior.

Your petitioners respectfully submit that in their desire to demonstrate their title to good citizenship, they feel it to be but just that they should receive the same encouragement of opportunity as is given to the citizens of the other Territories, where neither the same conditions or prehistory exist as in Hawaii.

And your petitioners will ever pray.

To the honorable, etc.:

We, the undersigned, citizens of the United States and of the Territory of Hawaii, do respectfully petition the Fifty-eighth Congress, through your honorable commission, for the enactment of a law whereby the United States Government shall take full charge and control of the leper colony at Kalaupapa, on the island of Molokai, to be henceforth known as the "Molokai Reservation," for the segregation and maintenance of leprosy persons of the United States, and the same to be under the authority, charge, and direction of the Secretary of the Treasury of the United States.

To the honorable, etc.:

We, the undersigned, citizens of the United States and of the Territory of Hawaii, do respectfully and earnestly protest against the (as we believe it to be, unwarranted and unauthorized) taking of public lands of the government and applying them to the purposes of private corporations.

We respectfully petition the honorable commission from the Senate of the United States to inquire into the taking of private lands for the purposes or facilitation of the Honolulu Rapid Transit and Land Company, the giving of government land in exchange therefor, by the Territorial officials without recompense.

J. M. POEPOE, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. POEPOE. Native by birth, American citizen of the Territory of Hawaii; age, 52 years; occupation, attorney at law; residence, Honolulu.

Senator MITCHELL. Have you anything you wish to present to the committee?

Mr. POEPOE. I have this resolution.

(Reads.)

Senator MITCHELL. Are you chairman of the Home Rule committee?

Mr. POEPOE. I am one of the committeemen, and the committee resolved itself to appoint me, perhaps being an attorney.

Senator MITCHELL. I take it you are a Home Ruler?

Mr. POEPOE. I am a Home Ruler, sure.

CHARLES NOTLEY, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. NOTLEY. Age, 41; residence, Honolulu; occupation, surveyor.

Senator MITCHELL. How long have you lived in the islands?

Mr. NOTLEY. I am a native Hawaiian, and have resided here all my life.

Senator MITCHELL. What did you wish to present to the committee?
Mr. NOTLEY. I wished to present a petition from the people living at the detention camp at Kalihi—that is the people burnt out.
Submitted.

F. W. BECKLEY, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. BECKLEY. I reside in Honolulu; age, 28; occupation, stock rancher and grazing.

Senator MITCHELL. You have a paper you wish to present to the committee?

Mr. BECKLEY. Yes.

Senator MITCHELL. On what subject?

Mr. BECKLEY. On the policy of the Territorial administration as to the disposition of the public lands.

Senator BURTON. You have a map accompanying that statement?

Mr. BECKLEY. Yes.

Statement presented.

GEORGE MARKHAM, sworn.

Senator MITCHELL. State your name, age, residence, and occupation.

Mr. MARKHAM. A bricklayer by trade; a native Hawaiian, now an American citizen; age, 40, and now an editor of the Independent Home Rule Party.

Senator MITCHELL. What statement have you to make?

Mr. MARKHAM. I wish to make a statement about the feeling existing in this Territory between the chief executive and the people residing here, the native Hawaiians as well as the Americans.

Senator MITCHELL. Be as brief as you can.

Mr. MARKHAM. I am in touch with all inhabitants of these islands, the native Hawaiians through the whole group. I am in communication with them and I am the editor of the organ that carried Delegate Wilcox to election at the last campaign, and I know the feelings which exist between the chief executive and the native Hawaiians.

Since we were overthrown, the government has been, the governor has been the president under the provisional and then afterward the republic of Hawaii until annexation, when he was appointed the first governor of this Territory by President McKinley. As a native Hawaiian and speaking for my people, we do feel it was a great mistake on the part of the United States that he was appointed the first governor of this Territory. Being connected with all the affairs of the past, we to-day look to him and we are not in sympathy with him and we can not work in harmony with the governor, the chief executive, Governor Dole of this Territory.

We speak our feelings that the American citizens have taken our independence away from us and we now look to the United States for all the privileges we may enjoy under the Constitution thereof.

First, we wish that it will be created in this Territory, the power be brought into influence on the people, that there be a city and county government. At the present time the governor has extraordinary powers. He uses them to the best of his ability, not coming in touch with the people. The last legislature, on the floor of the house, he selected his secretary, Henry E. Cooper, on the floor of the house to intimidate the legislature sitting then. What was done? A resolu-

tion was brought in from Beckley. It was carried. Governor Dole said that we had interfered with his department, and that he would have nothing to do with the legislature. Since then we have not had good feeling. We have made overtures to him, still he will have nothing to do with the Home Rule party.

Senator MITCHELL. You advise a change in the governor?

Mr. MARKHAM. Well, it would be for the best interests to bring the people in touch with the executive.

Senator MITCHELL. Have the people anybody in mind?

Mr. MARKHAM. No, sir. We have petitioned Congress; still he was reappointed by President Roosevelt. Therefore you can see how conditions are to-day and how we live under prejudices. We speak our feelings. A governor should be appointed that has nothing to do with our internal local affairs. It should be a governor that had taken no part in the overthrow of our government. A governor should be appointed in the United States, like Governor Taft and General Wood. I think we should have justice. He overthrew our monarchy and our independence.

Senator FOSTER. Did you favor annexation?

Mr. MARKHAM. No, sir; we didn't know the first thing about annexation.

Senator BURTON. You were annexed before you knew?

Mr. MARKHAM. Well, it was unknown. The thing was going on, but we didn't want it—the vast majority of the people of this Territory.

Senator MITCHELL. What is the feeling of the people to-day toward the United States?

Mr. MARKHAM. Our feeling toward the United States is a good feeling. We have to submit to the inevitable. We did not raise arms against the United States like other Territories now taken possession of. We submitted peaceably, and we submitted to the laws of the United States; therefore we look to that country that we should have all the privileges enjoyed under the Constitution of the United States.

Our feeling has been so great, Mr. Senators, that we come to you; we are thankful for the privileges that we have had because the Senate has sent you here to find out the conditions of this Territory.

I wish to speak also of the leper settlement. There was a petition brought here from them. On the 14th day of March of this year Mikila, he was a leper, and thrown into a dungeon in Kalaupapa prison. I think he was kept there two weeks. He died from the effects of throwing him into prison. He was covered over literally with maggots.

Senator MITCHELL. What prison thrown into?

Mr. MARKHAM. In the Kalaupapa prison.

Senator MITCHELL. On Molokai?

Mr. MARKHAM. Yes; on Molokai.

Senator MITCHELL. What was he put in prison for?

Mr. MARKHAM. I think he was connected with some larceny of a sheep or goat. There was no trial.

Senator MITCHELL. He was a member of the colony?

Mr. MARKHAM. No trial, no judge—turned into a dungeon, and he died.

Senator MITCHELL. How do you know?

Mr. MARKHAM. Record of board of health. The thing was brought before the public. The board of health discharged the manager, Reynolds. A letter was written down here and the thing we—wildfire

The condition of the leper in this Territory is a matter that strikes our vital heart. Taken from their families; taken away no more to be seen; there to die. A leper is taken down here even with his little finger like that. He is a leper.

We wish this leper settlement taken over by the Federal authorities. They would get better treated and better looked after. Some right here in Honolulu have tried to be cured. I know a woman that has been taking medicine and found herself relieved. But do without medicine—take the leper off to Molokai.

Senator MITCHELL. Do you object to sending persons over there if they really have leprosy?

Mr. MARKHAM. No; I don't object, if they are treated properly by scientists.

Senator MITCHELL. They are not properly treated?

Mr. MARKHAM. Not properly treated. They have salmon that is not fit to eat.

Senator MITCHELL. You don't mean to have us understand that persons who really have not leprosy are sent to Molokai?

Mr. MARKHAM. Symptoms of a ring around the little finger—he is a leper, take him to Molokai to diminish our elective power. I do believe, Mr. Senators, this sentiment is true. Take them over to Molokai. I want to speak on the land.

Senator BURTON. We have so much information on land matters that I do not think you could give us anything new. We have paid a great deal of attention to it. Anything new you can think of we shall be glad to consider?

Mr. MARKHAM. I wish that it be taken over by the Federal Government.

Senator BURTON. You favor that?

Mr. MARKHAM. I favor that. I think it is wanted because the government here does not want to lose their power.

Senator BURTON. All these questions have been very fully presented to us. Now we have all the facts, we will give it careful consideration.

Mr. MARKHAM. It would be a blessing to this country and to the poor people. As a mechanic, as a bricklayer in one of the unions of this country, as a laborer, I say this. Two years ago the mechanics of this country, citizens of the United States, members of the bricklayers' union, carpenters, plumbers, etc., we had a great big lot two years ago. What is it, to-day? Not a dozen plumbers, 25 carpenters; 10 bricklayers out of 75 two years ago.

Senator MITCHELL. You object to opening up the immigration laws to Oriental labor?

Mr. MARKHAM. Only under conditions. Labor is a very great problem in these islands—a very intricate problem.

Senator BURTON. Are you in favor of restricted immigration for agricultural purposes only?

Mr. MARKHAM. With certain restrictions.

Senator BURTON. Restricted to the cane fields?

Mr. MARKHAM. If they are kept there without interfering in the mechanical trades, I think it is a very proper thing.

Senator BURTON. We have given very careful consideration to hearings on that problem, and I think all the facts have been filed with us, and we are going to give that matter very careful consideration.

Mr. MARKHAM. I am very thankful.

Senator FOSTER. Are there Chinese and Japanese bricklayers?

Mr. MARKHAM. Yes. Depriving us of the business.

E. P. DOLE sworn.

Senator BURTON. This statement is not sworn to; merely a copy of a letter of Mr. Spencer to Mr. Boyd. Now, can you vouch for the truthfulness of that letter?

Mr. DOLE. No, sir; I can not.

Senator BURTON. What is the reason Mr. Spencer did not come here and submit to a cross-examination?

Mr. DOLE. I think it would be well to have Mr. Spencer brought.

Senator BURTON. We close in a few minutes. We are not going to do anything more.

Mr. DOLE. If the commission pleases, the Spencer matter was referred to me. I told you that I knew nothing about the facts, but that there would be a statement presented. That statement was handed to me and such as it was I handed it to the committee.

I understand a statement was made that the board of health by their agents was giving the merchants 100 per cent profit. I will say that the articles which are purchased by the board of health are purchased by bids, and the lowest bidder gets it.

Senator BURTON. There was no statement of that kind?

Mr. DOLE. The members of the board of health receive no compensation and spend a great deal of their time. A store has to be run, and it used to be run at a profit to pay the expenses of the leper settlement. I myself objected to that about two years ago. As I understand it, goods are sold at a 5 per cent advance over their actual cost, in order to pay the expenses of running the store. It is understood that the goods are sold to the lepers and the inhabitants of the settlement.

Senator BURTON. Is there but one question, the one of the welfare of the lepers themselves?

Mr. DOLE. That is the only thing.

Senator MITCHELL. This committee has now reached the end of its investigations, and before announcing adjournment, on behalf of the committee, I desire to extend to the Federal and Territorial officials, the several witnesses we have examined, both on these islands and the other islands, and the people generally, men and women, of all the islands, the very warmest thanks for the very courteous treatment which has been extended to us, for the cordial welcome that was given us on our arrival, and for the universally kind and cordial treatment we have received everywhere. This includes the press, of course, always, which has been very fair in its report, so far as I able to judge.

The committee now stands adjourned to meet on the deck of the steamer *Sierra*.

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